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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,081	10/23/2007	Hajime Nakamura	JP920060120US1	7324

45502 7590 05/20/2008
DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN, TX 78759

EXAMINER

ART UNIT	PAPER NUMBER
2123	

MAIL DATE	DELIVERY MODE
05/20/2008	PAPER

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

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

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TECHNOLOGY CENTER 2100

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN TX 78759

In re Application of: Hajime Nakamura
Application No. 11/877,081
Filed: October 23, 2007
For: METHOD OF AND SYSTEM FOR SIMULATING A LIGHT-EMITTING DEVICE

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 23, 2008 to make the above-identified application special.

The 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 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 fail to include:

A. Item 2 above. Specifically,

1) Applicant is required to **submit a copy of the allowable/patentable claim(s)** from **the JPO application(s)** ***to which priority under 35 U.S.C. 119(a) has been validly claimed*** (refer items 1 and 2 above) along with an English translation thereof and **a statement that the English translation is accurate.**

The petition equates claims 18-20 of the instant application to patentable claims 9-11 of the corresponding Japanese application. The petition filed 4/23/08 also contains translation of reasons for refusal, in which claim 9 was rejected, and claims 10 and 11 were indicated allowable. Translation Certificate filed with the petition states that " the attached is an accurate translation of the pending claims **(part of which are allowable)** of Japanese Patent Application No. JP920060120 to the best of my knowledge and belief". It is not clear which part of the document (which claims) the translator is indicating as allowable? Are the translated JP application claims being submitted with the petition the same claims that were finally rejected by JPO as indicated by the translated Reasons for Refusal Document, in which claim 9 was rejected and claims 10 and 11 were indicated allowable. Clarification is required.

2) Further, the header on the Japanese claims displays "JP920060**102**JP1" as the document identifier, which is different from the document identifier JP920060**120** listed in the body of the "Translation Certificate".

B. Item 3 above. Specifically,

1) Claim19 of the instant application differs in scope form the corresponding claim 10 of the Japanese allowed application, in that claim 19 of the instant application recites "a step for associating the concentration of excitons with **a position coordinate** within the light-emitting device", where as the corresponding limitation in the translated Japanese claim 8 recites "a step for associating the concentration of excitons with **the position coordinates** within the light-emitting device".

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,081	10/23/2007	Hajime Nakamura	JP920060120US1	7324

27431 7590 06/25/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER

ART UNIT	PAPER NUMBER
2123	

MAIL DATE	DELIVERY MODE
06/25/2008	PAPER

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

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

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TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Hajime Nakamura
Application No. 11/877,081
Filed: October 23, 2007
For: METHOD OF AND SYSTEM FOR SIMULATING A LIGHT-EMITTING DEVICE

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 23, 2008 and the request for reconsideration of adverse decision filed June 9, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

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

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S.

patent application publications; and

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

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

The request and petition are **GRANTED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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

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

Mano Padmanabhan

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

Mail Date: 04/21/2010

Applicant	: Kelly J. Branch	: DECISION ON REQUEST FOR
Patent Number	: 7581733	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/877,092	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/03/2010

Applicant	: Michael F. Pas	: DECISION ON REQUEST FOR
Patent Number	: 7642153	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/877,175	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Stephen W. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7584925	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/877,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/4/9

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction for Appl. No.: 11877248 Patent No.: 7448193

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

Note: Col. 3-4

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.

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

Comments: _____

/AFK/ — **SPE**

3671 — **Art Unit**

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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O. BOX 2113
MADISON WI 53701-2113

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JUN 02 2010

OFFICE OF PETITIONS

In re Application of
Amasino, et al.
Application No. 11/877,266
Filed: October 23, 2007
Attorney Docket No. 960296.00655

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 31, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition. Application No. 10/600,948 is being formally claimed and Application No. 09/513,775 was previously improperly claimed because of the lack of copendency between it and the present application.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference Application No. 10/600,948, filed June 20, 2003. An incorporation by reference statement added after an application's filing date is not effective because no new matter can

be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter 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
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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,277	10/23/2007	Noriyuki Yoshigahara	B588-323 (25815.329)	7635

26272 7590 05/06/2010
COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER
CHOWDHURY, SUMAIYA A

ART UNIT	PAPER NUMBER
2421	

MAIL DATE	DELIVERY MODE
05/06/2010	PAPER

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

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

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COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK NY 10036

In re Application of: YOSHIGAHARA, NORIYUKI
Application No. 11877277
Filed: October 23, 2007
For: INFORMATION RECEIVING APPARATUS AND CONTROL METHOD THEREOF

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

MAILED

MAY 06 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 19, 2010, to make the above-identified application special.

The petition is **GRANTED.**

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

(1) The U.S. application must (1) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s) or to a PCT application that does not contain any priority claim, or (2) is 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 petition are found to comply with all the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

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

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

/Hassan Kizou/

Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

COPY MAILED
JUL 21 2008

In re Application of	:	
Barry Harvey	:	
Application No. 11/877,333	:	DECISION GRANTING PETITION
Filed: October 23, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ELAN-01155US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 18, 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 10, 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 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

---

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

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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA PA 19103

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OCT 0 7 2008

OFFICE OF PETITIONS

In re Application of :
SCHREIBER et al. :
Application No. 11/877,339 : DECISION ON PETITION
Filed: 10/23/2007 :
Attorney Docket No. TGXX-1038US :

This is a decision on the petition under 37 CFR.1.181, filed August 1, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On November 13, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, setting a two-month extendable period to submit an executed or declaration, a $65.00 surcharge, and replacement drawings.

In response, on March 4, 2008, applicants filed an executed declaration and power of attorney, a corrected Application Data Sheet, a request for an extension of time for response within the second month (and fee), and a $65.00 surcharge. On March 13, 2008, applicants submitted a preliminary amendment and replacement drawings.

On March 14, 2008, the Office mailed a Notice of Incomplete Reply stating that applicants' reply on March 4, 2008, did not include replacement drawings. The Notice indicated that the period for reply remained as set forth in the Notice to File Missing Parts of Nonprovisional Application, including extensions of time for response. Thereafter, on July 17, 2008, the Office mailed a Notice of Abandonment.

The Office notes that the aforementioned papers filed on March 4, 2008, and March 13, 2008, were located in the Image File Wrapper for the above-identified application. The Office further notes that applicants filed an extension of time for response within the second month (and fee). Therefore, applicants were required to file a complete reply on or

before March 13, 2008, to avoid abandonment of the application. The Notice of Incomplete Reply correctly stated that applicants' reply on March 4, 2008, did not include replacement drawings. However, applicants supplemented their reply on March 13, 2008, which included replacement drawings as required by the Notice to File Missing Parts.

In view of the above, the reply is considered timely filed on March 13, 2008, with the request for an extension of time for response within the second month (and fee). See 37 CFR 1.8(a) and 1.136(a).

Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that applicants filed a timely reply to the Notice to File Missing Parts of Nonprovisional Application.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

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

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JUN 19 2008

OFFICE OF PETITIONS

HEALTH HERO NETWORK, INC.
2400 GENG ROAD, SUITE 200
PALO ALTO CA 94303

In re Application of
Schweisguth, et al.
Application No. 11/877,347
Filed: 23 October, 2007
Attorney Docket No. 06-0614

DECISION ON PETITION

This is a decision on the petition inappropriately styled "Petition by Person *** (37 C.F.R. §1.47(b)," (emphasis supplied) filed on 19 February, 2008, and properly considered under 37 C.F.R. §1.47(a).

The petition is considered under 37 C.F.R. §1.47(a), rather than as filed under 37 C.F.R. §1.47(b), because there are two inventors, one of whom (Ms. Schweisguth) has signed the oath/declaration.

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

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

Petitioner has shown that the non-signing inventor has failed and, thus, constructively refused to join in the filing of the above-identified application (and apparently refused delivery of the papers transmitted to him).

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

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

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

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

CONCLUSION

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

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JUN 19 2008

OFFICE OF PETITIONS

STEPHEN J. BROWN
3324 WOODSIDE ROAD
WOODSIDE , CA 94062

In re Application of	:	
Schweisguth, et al.	:	COMMUNICATION
Application No. 11/877,347	:	
Filed: 23 October, 2007	:	
Attorney Docket No. 06-0614	:	

Dear Stephen J. Brown:

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:
HEALTH HERO NETWORK, INC.
2400 GENG ROAD, SUITE 200
PALO ALTO CA 94303

---

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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SEP 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Khader Mohiuddin, Thierry	:	
Navarro, and Florent Junod	:	
Application No. 11/877,371	:	DECISION ON PETITION
Filed: October 23, 2007	:	PURSUANT TO
Attorney Docket No. 52523.7.5	:	37 C.F.R. § 1.47(A)
Title: VOLUMETRIC PUMP	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed August 12, 2008.

This petition pursuant to Rule 1.47(a) is **DISMISSED**.

On October 23, 2007, this application was filed, identifying Khader Mohiuddin, Thierry Navarro, and Florent Junod as joint inventors. The application was deposited without a fully-executed oath or declaration. On April 23, 2008, 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. The notice set a two-month period for response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing

the application, as set forth in 37 C.F.R. § 1.16(e);

(3) a statement of the last known address of the non-signing inventors;

(4) either

a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

With this petition, Petitioner has submitted, *inter alia*, a portion of the petition fee,[1] a declaration that has been executed by the first named inventor along with the surcharge that is associated with the late submission of the same, the last-known address of each non-signing inventor, and proof that a complete copy of the application was sent to the last-known address of the non-signing inventors. Petitioner has further included a two-month extension of time so as to make timely this submission.

Petitioner has met requirements (1) - (4) of 37 C.F.R. § 1.47(a).

Regarding the fifth requirement of Rule 1.47(a), Petitioner has not submitted a declaration that complies with 37 C.F.R. § 1.63. **The declaration submitted with this petition contains a non-dated change by signing inventor Mohiuddin.**[2]

Any renewed petition must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)." This is <u>not</u> 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

---

1 The petition fee will be charged to Petitioner's Deposit Account, as authorized in the petition, in due course.

2 <u>See</u> 37 C.F.R. § 1.52(c)(1) and MPEP § 605.04(a).

submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[7]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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
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 of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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Paper No.

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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DEC 19 2008

In re Application of	:	
Khader Mohiuddin, Thierry	:	
Navarro, and Florent Junod	:	
Application No. 11/877,371	:	DECISION ON RENEWED
Filed: October 23, 2007	:	PETITION PURSUANT TO
Attorney Docket No. 52523.7.5	:	37 C.F.R. § 1.47(A)
Title: VOLUMETRIC PUMP	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed October 3, 2008.

This renewed petition pursuant to Rule 1.47(a) is **GRANTED**.

On October 23, 2007, this application was filed, identifying Khader Mohiuddin, Thierry Navarro, and Florent Junod as joint inventors. The application was deposited without a fully-executed oath or declaration. On April 23, 2008, 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. The notice set a two-month period for response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing

the application, as set forth in 37 C.F.R. § 1.16(e);

(3) a statement of the last known address of the non-signing inventors;

(4) either

a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on August 12, 2008, along with, *inter alia*, the petition fee,[1] a declaration that has been executed by the first named inventor along with the surcharge that is associated with the late submission of the same, the last-known address of each non-signing inventor, and proof that a complete copy of the application was sent to the last-known address of the non-signing inventors. Petitioner further included a two-month extension of time so as to make timely the submission.

The original petition was dismissed via the mailing of a decision on September 9, 2008, which indicated that Petitioner had met requirements (1) - (4) of 37 C.F.R. § 1.47(a), and that the declaration could not be accepted, as it fails to comply with 37 C.F.R. § 1.63.

With this renewed petition, Petitioner has submitted a declaration that is in compliance with 37 C.F.R. § 1.63.

As such, <u>each of the five requirements of 37 C.F.R. § 1.47(a) has been satisfied</u>. This application is hereby accorded Rule 1.47(a) status.

As provided in 37 C.F.R. § 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address which appears on the declaration. Notice of the

1 The petition fee was charged to Petitioner's Deposit Account, as authorized in the original petition.

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 concerning examination procedures or status of the application 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 Petitioner's further action(s).

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Alexandria, VA 22313-1450
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PATENT DOCKETING
ROOM 2A-207, ONE AT&T WAY
BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Jennifer H. Chen et al	:	
Application No. 11/877,380	:	DECISION ON PETITION
Filed: October 23, 2007	:	
Attorney Docket No. ATT/2000-0232CON	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 17, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Craig A. Hoersten
Alcatel Lucent
Intellectual Property Department
3400 West Plano Parkway, MS LEGL2
Plano TX 75075

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MAY 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Rose et al.	:	
Application No. 11/877388	:	DECISION GRANTING
Filing or 371(c) Date: 10/23/2007	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
SYSTEM AND METHOD FOR	:	
AVOIDING DUPLICATION OF	:	
MAC ADDRESSES IN A STACK	:	

This is in response to the Petition Under 37 CFR 1.47(a), filed April 8, 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 **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, Manish Gupta, cannot be found or reached after diligent effort.

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

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. MANISH GUPTA
6121 GLADE AVENUE, B126
WOODLAND HILLS, CA 91367

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MAY 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Rose et al.	:	
Application No. 11/877388	:	LETTER
Filing or 371(c) Date: 10/23/2007	:	
Title of Invention:	:	
SYSTEM AND METHOD FOR	:	
AVOIDING DUPLICATION OF	:	
MAC ADDRESSES IN A STACK	:	

Dear Mr. Gupta:

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: Craig A. Hoersten
Alcatel Lucent
Intellectual Property Department
3400 West Plano Parkway, MS LEGL2
Plano TX 75075

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

In re Application of	:	
David A. Shamma	:	
Application No. 11/877,402	:	DECISION ON PETITION
Filed: October 23, 2007	:	TO WITHDRAW
Attorney Docket No. 324212017401	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 24, 2010.

The request is **APPROVED**.

A review of the file record indicates that Robert A. Saltzberg: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Robert A. Saltzberg has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert A. Saltzberg
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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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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PROCOPIO CORY HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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AUG 14 2009

OFFICE OF PETITIONS

In re Application of

Michael C. Pousti
Application No. 11/877,423
Filed: October 23, 2007
Attorney Docket No. 116559-2001CP

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 29, 2009.

The request is **APPROVED**.

A review of the file record indicates that William D. McSpadden: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, William D. McSpadden has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: William D. McSpadden
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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OFFICE OF PETITIONS

In re Application of	:	
Brent D. Murphy, et al.	:	
Application No. 11/877,424	:	NOTICE
Filed: October 23, 2007	:	
Attorney Docket No. 16663-201884	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SMITH INTERNATIONAL INC.
16740 HARDY
HOUSTON TX 77032

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OCT 2 2 2008
OFFICE OF PETITIONS

In re Application of	:	
Stephen C. Steinke	:	
Application No. 11/877,430	:	DECISION ON PETITION
Filed: October 23, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02-STR74(2)	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed May 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jeffrey S. Bergman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Bergman desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed Mr. Bergman; however, all future correspondence will be directed solely to the address of record.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the

application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,410 petition fee submitted is unnecessary and will be refunded to petitioner in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2863 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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DEREK T. GILLILAND
7901 FISH POND ROAD
2ND FLOOR
WACO, TX 76710

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AUG 08 2008

OFFICE OF PETITIONS

In re Application of	:	
James V. Kozacki	:	
Application No. 11/877,431	:	DECISION ON PETITION
Filed: October 23, 2007	:	TO WITHDRAW
Attorney Docket No. Kozacki	:	FROM RECORD
	:	

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 6, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the request is unsigned.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES V. KOZACKI
5111 IH 35 N., APT. 218
WACO, TX 76705

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DEC 0 8 2008

In re Application of	:	
James V. Kozacki	:	
Application No. 11/877,431	:	DECISION ON PETITION
Filed: October 23, 2007	:	TO WITHDRAW
Attorney Docket No. Kozacki	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 26, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Derek Gilliland on behalf of himself. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no pending Office actions at the present time.

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

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

cc: JAMES V. LOZACKI
5111 IH 35 N., APT 218
WACO, TX 76705

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/877,431	10/23/2007	James V. Kozacki	Kozacki

CONFIRMATION NO. 7890

POWER OF ATTORNEY NOTICE

OC000000033443413

72753
Derek T. Gilliland
7901 Fish Pond Rd.
2nd Floor
Waco, TX 76710

Date Mailed: 12/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/26/2008.

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

/amwise/

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

In re Application of:
Michael J. GEILE, et al.
Serial No.: 11/877,443
Filed: October 23, 2007

Title: **SYSTEM AND METHOD FOR RANGING AND ROUND TRIP DELAY ADJUSTMENT IN A MULTIPOINT-TO-POINT ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING SYSTEM**

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

This is a decision on the petition filed on October 23, 2007 requesting to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

Petitioner's statement that applicant is prepared to swear behind the Bingham et al. reference is noted. Although this statement is not a statement within the meaning of 37 CFR 1.111(b) it is accepted contingent upon the filing of acceptable affidavit(s) under 37 CFR 1.131. The affidavit(s) should be presented in a timely manner, preferably prior to first Office action. Failure to timely submit acceptable affidavit(s) would likely result in the application of Bingham et al. and/or Cioffi *vis-a-vis* one or more of the instant claims.

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

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

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

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

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

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

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

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

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

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by

an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

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

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

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

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

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

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

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

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

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS MN 55439

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OFFICE OF PETITIONS

In re Application of Geile et al. Application No. 11/877,443 Filed: October 23, 2007 Attorney Docket Number: 100.070US109 Title: SYSTEM AND METHOD FOR RANGING AND ROUND TRIP DELAY ADJUSTMENT IN A MULTIPOINT-TO-POINT ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING SYSTEM	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the petition filed August 25, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal on March 12, 2009. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on May 13, 2009. A Notice of Abandonment was mailed on August 25, 2009.

With the present petition, Petitioner has requested that the holding of abandonment be withdrawn.

It is noted an extension of time is still available, and as such, Applicant is in a position to purchase an extension of time. It is further noted that neither a response nor an extension of time was included with this petition.

The petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 2416 will be made aware of this decision. **If the appropriate response and a five-month extension of time are not received by October 12, 2009, the Technology Center will mail a notice of abandonment.**

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

In re Application of:
Michael J. GEILE, et al.
Serial No.: 11/877,453
Filed: October 23, 2007

Title: **SYSTEM AND METHOD FOR MULTIFRAME ALIGNMENT IN A MULTIPOINT-TO-POINT ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING SYSTEM**

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

This is a decision on the petition filed on October 23, 2007 requesting to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

Petitioner's statement that applicant is prepared to swear behind the Bingham et al. reference is noted. Although this statement is not a statement within the meaning of 37 CFR 1.111(b) it is accepted contingent upon the filing of acceptable affidavit(s) under 37 CFR 1.131. The affidavit(s) should be presented in a timely manner, preferably prior to first Office action. Failure to timely submit acceptable affidavit(s) would likely result in the application of Bingham et al. *vis-a-vis* one or more of the instant claims.

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

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

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

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

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

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

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

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

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

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

amended or new claim is supported by the original accelerated examination support document.

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

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

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

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

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

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

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

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

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 04/20/2010

Applicant	: Chen-cheng Liao	: DECISION ON REQUEST FOR
Patent Number	: 7580201	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/877,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DALLAS TX 75265

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of
Tarik Muharemovic, et al.
Application No. 11/877,533
Filed: October 23, 2007
Attorney Docket No. TI-63611

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 6, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 19, 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 April 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2474 for appropriate action by the Examiner in the normal course of business on the reply received May 6, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,574	10/23/2007	Mark Jeffrey Stefik	20070313Q1-US-NP	8135

35700 7590 04/19/2010
CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
SUITE 1005
SEATTLE, WA 98101

EXAMINER
KUNTZ, CURTIS A

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
04/19/2010	PAPER

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

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

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
SUITE 1005
SEATTLE WA 98101

In re Application of
STEFIK, MARK JEFFREY
Application No. 11/877,574
Filed: October 23, 2007
For: **DIGITAL MEDIA PLAYER AND METHOD FOR FACILITATING SOCIAL MUSIC DISCOVERY THROUGH SAMPLING, IDENTIFICATION, AND LOGGING**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed December 3, 2009, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed June 4, 2008, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document in question will not be available to the public during prosecution.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

2.20

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

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of

ROSARIO, Helen Geraldine E. et al.
Application No. 11/877,626
Filed: October 23, 2007
Attorney Docket No. **ISAA0121**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Michael A. Glenn on behalf of all attorneys of record who are associated with customer No. 22862. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HELEN GERALDINE E. ROSARIO**
280 DORSET LANE
AUSTIN, TEXAS 78737

cc: **JAMES CLEARY**
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CA 92121

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LERNER GREENBERG STEMER LLP
P.O. BOX 2480
HOLLYWOOD FL 33022-2480

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OCT 28 2008

In re Application of	:	
Scott Dresden	:	
Application No. 11/877,639	:	DECISION ON PETITION
Filed: October 23, 2007	:	
Attorney Docket No. X-9285	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an corrected drawings/amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed November 16, 2007, is accepted as having been unintentionally delayed.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MOU-SHIUNG LIN
SCIENCE-BASED INDUSTRIAL PARK
ROOM 301/302, NO. 47
PARK 2ND RD.
HSIN-CHU 300 TW TAIWAN

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Mou-Shiung LIN	:	
Application No. 11/877,647	:	DECISION ON PETITION
Filed: October 23, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MEG 00-008-E05	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (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 was not provided in the petition.

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 Michelle R. Eason at 571-272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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MOU-SHIUNG LIN
ROOM 301/302, NO. 47, PARK 2ND RD.,
SCIENCE-BASED INDUSTRIAL PARK
HSIN-CHU 300 TW TAIWAN

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of Mou-Shiung Lin Application No. 11/877,649 Filed: October 23, 2007 Attorney Docket No. MEG 00-008-E06	: : : : :	ON PETITION

This is a decision on the petition, filed April 8, 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 **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). Petitioner requests that the application be withdrawn from issue to consider a request for continued examination (RCE) under 37 CFR 1.114. However, there is no indication that a RCE was filed. A proper RCE must be filed for further consideration under 37 CFR 1.313(c)(2).

Since the circumstances of the above-identified application do not fall within any of the exceptions under 37 CFR 1.313(c), the petition cannot be granted at this time.

It is noted that the application has been assigned a patent number and issue date of April 28, 2009. Accordingly, if reconsideration of this decision is desired, a Request for Reconsideration under 37 CFR 1.313(c) must be promptly filed. The Request for Reconsideration must comply with one of the reasons for withdrawal cited in 37 CFR 1.313(c), including all pertinent papers and fees. **It is recommended that the facsimile number listed below be used to file the renewed petition, since the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance.** *Note* 37 CFR 1.313(d).

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) 273-0025
ATTN: Office of Petitions

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MOU-SHIUNG LIN
ROOM 301/302, NO. 47, PARK 2ND RD.,
SCIENCE-BASED INDUSTRIAL PARK
HSIN-CHU 300 TW TAIWAN

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Mou-Shiung Lin	:	
Application No.: 11/877,649	:	ON PETITION
Filed: October 23, 2007	:	
Attorney Docket No.: MEG 00-008-E06	:	

This is a decision on the renewed petition, filed April 27, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2814 for further processing of the request for continued examination under 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

6-25-09

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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COMMISSIONER OF PATENTS AND TRADEMARKS
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Alexandria, VA 22313-1450

Patent No. : 7,521,805
Serial No. : 11/877,658
Applicant : Mou-Shiung, et. al.
Issued : April 21, 2009

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.323.

Respecting the alleged applicant's mistake on the 09-02-2008 Terminal Disclaimer sheet, the printed patent does not contain the incorrect information being referred to by applicant. The terminal disclaimer sheet dated 09-02-2008 was used by the office for the purpose of publishing the notice of terminal disclaimer. The notice appears on the title page of patent and lists the term of patent. In this particular case, below the notice is a statement which indicates that the patent is subject to a terminal disclaimer. All of the above identified information mentioned appears on the title page as correct. The inventor names on the title page at Item (75) are correct. The assignee name on the title page at Item (73) is correct. There is no more information concerning the terminal disclaimer to review on the title page or specification in the printed patent. Therefore, the office cannot take any action on this matter.

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

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

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

Megica Corporation
Science-Based Industrial Park
Room 301/302, No.47, Park 2nd Rd.
Hsinchu, 30075, Taiwan

ej

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DOROTHY S. MORSE
515 PARK DRIVE, NW
BRADENTON FL 34209

In re Application of: Abou el Kheir, Tarek Ahmed Nabil.
Application No.: 11/877,693
Filed: October 24, 2007
Title: ENDOSCOPIC SYSTEM AND METHOD FOR THERAPEUTIC APPLICATIONS AND OBTAINING 3-DIMENSIONAL HUMAN VISION SIMULATED IMAGING WITH REAL DYNAMIC CONVERGENCE

FEB 07 2008

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

This is a decision on the petition filed on October 24, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable 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 U.S.C. 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in each such application in which such supports exists;

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

REVIEW OF FACTS

The conditions I: 1-4, II: 1-5, 5.1, 5.3, 6 and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 5.2, 6.1, 6.2, 6.3, 6.4 and 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Discussion

When referring to "the petition" herein below, the received papers under consideration include the four page PTO/SB/28 form "Petition to Make Special Under Accelerated Examination Program", the "pre-examination search document" including pages 1-4; the "accelerated examination support document" comprising pages 1-16, and two Information Disclosure Statements including form PTO/SB/08A(substitute PTO-1449 A), pages 1-13 and 1-3 respectively.

Regarding the requirements of section II element 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 600 subclasses 103, 111, 129, 166, 173, and in class 348 subclasses 45, 47, 65. Applicant's word search in the US database appears to be too narrow. "Stereoscopic, endoscope, and convergence," in a US Patent database appear on point (similar to Applicant's search in the EPO's database), as well as searching the Japanese Patent Office database using "endoscope" and "stereoscopic".

Regarding the requirements of section II element 6.1 outlined above, Applicant failed to file copies of the foreign patents and non-patent literature cited, as per 37 CFR 1.98(a)(2) (i) and (ii), see quotation that follows:

"§ 1.98 Content of information disclosure statement.
(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.
(2) A legible copy of:
(i) Each foreign patent;
(ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office."

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all of the limitations in the application claims that are disclosed in each of the reference(s) and where the limitation is disclosed in each of the cited reference. As stated in the policy published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), for each reference cited, the examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. The policy statement does not caveat "the independent claims", nor does it allow for grouping and general discussions. A grantable petition must delineate every limitation of every claim and identify where the equivalent limitation is disclosed in each piece of prior art cited on

the IDS. As is published on www.uspto.gov/web/patents/accelerated/ in "Guidelines for Applicants under the new accelerated examination procedures"):

> *For each reference cited, the accelerated examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. Applicants should specify where in each of the cited references the particular claim limitations are found. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This part of the AESD is not intended to be an exhaustive listing of every conceivable subjective interpretation of how a claim limitation may read on the reference. Applicants should point out what are considered to be the relevant representations of the limitation in the reference. A limitation may be found in more than one portion of the reference and should be pointed out, yet the intention is not to have applicants point out every conceivable interpretation. The USPTO will adopt a rule of reason when evaluating this portion of the AESD. Unless the representation is so deficient that it would materially effect examination of the application (e.g., numerous instances where the limitations are not shown where applicant states they are), the representation will be deemed to be sufficient for this part of the AESD.*

First, the petitioner chose to address only a single reference. According to the policy guidelines, all cited references should be addressed under this element. If the petitioner is of the opinion that said single reference (Kempf) is the only reference that is closely related to the claimed invention, he should refile his Information Disclosure Statements (IDS), by splitting them up between an IDS whose references are closely related to the claimed invention and addressed under the requirements of section II element 6.2, and an IDS whose references are filed as background information only. A statement should clearly identify which IDS lists references that are closely related the claimed invention, and which IDS lists references for background information only.

Second, the submission is not specific enough. Petitioner points out some limitations of some of the claims and provides direction to areas of the prior art where the corresponding limitation may be found. Petitioner does not address each limitation and where it is (or state that it is not) found in each closest prior art. Claimed limitations should be identified, or mapped, by element numbers and/or page and line number in the cited prior art.

Similarly, with respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how each of the claims are patentable over (each of) the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim (not only the independent claims) from each piece of prior art cited. General statements that the claims are

neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. Statements like the following (copied form Applicant's petition): "Through its claim 1, the present invention teaches an endoscopic device having: a main tubular shaft [see Figures 1, 2a, 2b, 4, 5, 6, 7, 11, 12, 13, 14, 23, 26, 28a, 28b, 28c, 29, 30, and paragraph #072] with at least one longitudinally-extending exterior channel;" are impossible to be deciphered, because it is not clear whether or not Applicant argues that the "main tubular shaft" distinguishes his claimed invention form that of Kempf. Furthermore, the following concluding paragraphs are more confusing than pointedly indicating which claimed limitation(s) defines over the cited prior art:

"The Kempf reference was selected as the closest prior art found to the present invention device, mainly as a result of the four-way pivot point (reference #154 in Fig. 16, and discussed at the bottom of column 11 and the top of column 12 of the Kempf printed patent specification). However, the Kempf invention does not have many of the required present invention features and is also distinguishable in many other ways.

Similar to the present invention, the Kempf invention is able to provide 3-d vision for an endoscopic device and account for needed convergence when viewing target objects. However, the manner in which the convergence is accomplished differs drastically. The Kempf invention uses side-by-side fiber optic imaging bundles (#32 and #34) and differing combinations of lenses (such as #140). Fig. 16 also shows the use of cameras (#38 and #39) and optical devices (#150 and #152) with the imaging bundles (#32 and #34) and lenses (#140), with a four-way pivot point (#154) on each for adjustable offsetting the images between the fiber optic imaging bundles (#32 and #34) and the cameras (#38 and #39). In contrast, the present invention is not limited to a 4-way pivot point (#154 in Kempf's Fig. 16), and instead has probe arms (#5 and #6) dynamically moving as far as 180-degrees away from one another, as well as cameras and other diagnostic/sensor probes (#3 and #4) that can achieve convergence at most probe arm (#5 and #6) positions. In Fig. 6 the Kempf disclosure identifies two side-by-side fiber optic bundles (#74 and #75) cemented to the ends of lenses (#70 and #71) tilted to provide a convergence angle. Dependent claims 2-13, 16-26, 25-30, and 32-33 in Kempf have no features that would define over references alone or in combination."

The next statement following the above quotation in section 9C of the petition referring to "six patents" is unclear because it does not specify which patents Applicant is referring to.

For these reasons, the petition does not meet the requirement of section II, element 6.3

To summarize the deficiencies of elements 6.2 and 6.3 above, each limitation in each claim has to be specifically, distinctly, and uniquely addressed with regard to each one of the cited references.

Regarding the requirements of section II element 6.4 outlined above, the petition fails to identify a concise statement of the utility of the invention as defined in each one of the independent claims. A general statement directed to the overall concept of the invention is not specifically relating the utility to each of the independent claims as is required by the policy. Petitioner should reference the independent claims specifically when discussing the utility of the invention.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. The instant petition only identifies figures and portions of text with respect to claim numbers as opposed to the required claim limitations. Each claim limitation has to be identified by an element number and/or a specific reference to a page number and line number where disclosed. In addition, the petition does not point out where in the specification the means in the "means plus function" claim language is identified, e.g., in claim 1, "first movement transmitting means".

DECISION

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

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

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Programs Examiner, at (571) 272-4828.

Ehud Gartenberg

Ehud Gartenberg
Special Programs Examiner
Technology Center 3700

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DOROTHY S. MORSE
515 PARK DRIVE, NW
BRADENTON FL 34209

MAR 17 2008

In re Application of: Abou El Kheir, Tarek Ahmed Nabil
Serial No.: 11/877,693
Filed: October 24, 2007
Title: ENDOSCOPIC SYSTEM AND METHOD FOR THERAPEUTIC APPLICATIONS AND OBTAINING 3-DIMENSIONAL HUMAN VISION SIMULATED IMAGING WITH REAL DYNAMIC CONVERGENCE

COMMUNICATION REGARDING ORDER OF EXAMINATION

A decision dismissing the petition to make the above-identified application special for accelerated examination was mailed on February 7, 2008. The decision set a non-extendable time period of one month or 30 (thirty) days, whichever is longer, from its mailing date to correct the deficiency/deficiencies in the petition.

As of March 7, 2008, the expiry of the period set, neither a reply nor a renewed petition was received. Accordingly, the application is no longer eligible for the accelerated examination program.

The application will remain in its regular status and will be taken up by the examiner for action in its regular turn.

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, Special Program Examiner, at (571) 272-4828. In his absence, Petitioner may contact Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg

Ehud Gartenberg, Special Program Examiner
Technology Center 3700

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MINNEAPOLIS, MN 55402-3901

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of

David M. GOLDENBERG
Application No. 11/877,728
Filed: October 24, 2007
Attorney Docket No. 360455

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 November 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 an affidavit signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1300 YONGE STREET
SUITE 500
TORONTO ON M4T-1X3 CA CANADA

MAILED
MAY 05 2010
OFFICE OF PETITIONS

Applicant: Van der Veen, Raymond
Appl. No.: 11/877,745
Filing Date: October 24, 2007
Title: METHOD FOR DISAMBIGUATING EMAIL RECIPIENT FIELDS IN AN ELECTRONIC DEVICE
Attorney Docket: P1927US00
Pub. No.: US 2009/0112994 A1
Pub. Date: April 30, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 4, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the publication duplicated the entire specification, correctly reproduced at paragraphs 1-26, as paragraphs 27-53.

37 CFR 1.221 (b) is applicable:

> "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable" (*emphasis added*).

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

The error noted by requestor may be an Office error, but it is not a material Office error under 37 CFR 1.221(b). The instant request does not state why printing the specification twice should be

[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).

considered a material mistake in the publication made by the Office under 37 CFR 1.221(b). While the disclosure is duplicative, the scope of provisional rights that applicant may seek to enforce is not altered by the duplicate printing. It is not seen how this error affects 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. Therefore, the instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b).

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

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

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

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

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

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

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

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application of :
Shigeru Umeno et al :
Application No. 11/877,806 : ON PETITION
Filed: October 24, 2007 :
Attorney Docket No. SHX 364DIV

This is a decision on the petition, filed June 22, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 17, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1792 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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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
136 S WISCONSIN ST
PORT WASHINGTON WI 53074

In re Application of	:	
HSIEH, JIANG	:	
Application No.: 11/877814	:	DECISION ON
Filing or 371(c) Date: October 24, 2007	:	PETITION
Attorney Docket Number: **GEMS8081.411**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed June 9, 2009 .

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed February 10, 2009.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756 - 1499.

Kendrick Spruill
Application Assistance Unit
Office of Data Management

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Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Ulf Fritz, et al.	:	
Application No. 11/877,839	:	DECISION ON PETITION
Filed: October 24, 2007	:	TO WITHDRAW
Attorney Docket No. 28007-0011	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 2009.

The request is **APPROVED**.

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

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CeloNova BioSciences, Inc.**
49 Spring Street
Newnan, GA 30268-2768

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/877,839	10/24/2007	Ulf Fritz	28007-0011

CONFIRMATION NO. 8606

POWER OF ATTORNEY NOTICE

29052
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

OC000000036582836

Date Mailed: 06/19/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/13/2009.

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

/tswilliams/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,859	10/24/2007	Tobias P. Lamprecht	CH920070019US1	8633

48915 7590 12/12/2007
CANTOR COLBURN LLP-IBM YORKTOWN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER

ART UNIT	PAPER NUMBER
2874	

MAIL DATE	DELIVERY MODE
12/12/2007	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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CANTOR COLBURN LLP-IBM YORKTOWN
55 Griffin Road South
Bloomfield, CT 06002

DEC 12 2007

In re Application of: LAMPRECHT *et al.* Serial No.: 11/877,859 Filed: October 24, 2007 Title: **MECHANICALLY DECOUPLED OPTO-MECHANICAL CONNECTOR FOR FLEXIBLE OPTICAL WAVEGUIDES EMBEDDED AND/OR ATTACHED TO A PRINTED CIRCUIT BOARD**	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on October 24, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the 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.1-4; II.1-5, 5.1-5.3, 6.1, 6.3-6.4 and 6.6, above are considered to have been met. However, the petition fails to comply with conditions II. 6.2 and 6.5, above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of II. 6.2, 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." For requirement II. 6.2, the petition must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. The support document does not specifically identify the limitation of the claims which are taught by the references. The support document presents a narrative of what the reference is alleged to teach, but does not reference any of the language from the claims. It is unclear which limitation of the claim is disclosed, or how many of the limitations are disclosed since . For the above reasons, the petition does not meet the requirements of II. 6.2, as set forth above.

Regarding the requirements of II.6.5, the petition is required to provide a showing of where **each limitation** of the application claims finds support under 35 USC 112, first paragraph, in the written description of the specification. Petitioner neither clearly shows support for each limitation, nor is it pointed out in the written description of the specification. For these reasons, the petition does not meet the requirements of II. 6.5, as set forth above.

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, 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 Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Clayton E. LaBalle
Special Program Examiner
Technology Center 2800

DECISION ON PETITION ROUTING SLIP

Application No.: 11877859

Art Unit: 2821

For Director's Secretary:

☐ **Granted** ☐ **Denied** ☑ **Dismissed**

- ☐ Decision to be reviewed and signed by Director
- ☑ Mail Decision & enter decision in Petition Database
- ☐ Forward a copy of the mailed decision to IFW for scanning
- ☐ Enter Paper Nos [ ] and the decision in PALM
- ☑ Other

NEW Accelerated Examination procedures

For TECH Support Staff:

- ☐ Process and enter Paper Nos. [ ]
- ☐ Charge [ ] fee to D.A. No [ ]
- ☐ Other [ ]
- ☐ Forward file to [ ]

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,859	10/24/2007	Tobias P. Lamprecht	CH920070019US1	8633

48915 7590 02/29/2008
CANTOR COLBURN LLP-IBM YORKTOWN
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER
FONT, FRANK G

ART UNIT	PAPER NUMBER
2883	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

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

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

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CANTOR COLBURN LLP-IBM YORKTOWN
55 Griffin Road South
Bloomfield, CT 06002

FEB 29 2008

In re Application of:
LAMPRECHT *et al.*
Serial No.: 11/877,859
Filed: October 24, 2007
Docket: **CH920070019US1**
Title: **MECHANICALLY DECOUPLED OPTO-MECHANICAL CONNECTOR FOR FLEXIBLE OPTICAL WAVEGUIDES EMBEDDED AND/OR ATTACHED TO A PRINTED CIRCUIT BOARD**

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

This communication is a reply to the petition filed January 07, 2008. The petition is being treated as a petition requesting reconsideration of the previous decision of December 11, 2007, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed October 24, 2007.

The petition to make the application special is GRANTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1594.

Clayton E. LaBalle, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,879	10/24/2007	Teruaki MATSUSHITA	P33263	8663

7055 7590 03/19/2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
MERLINO, ALYSON MARIE

ART UNIT	PAPER NUMBER
3673	

NOTIFICATION DATE	DELIVERY MODE
03/19/2008	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

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MAILED
FROM DIRECTORS OFFICE

MAR 1 8 2008

TECHNOLOGY CENTER 3600

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re application of Teruaki Matsushita Application No. 11/877,879 Filed: October 24, 2007 For: FASTENING METHOS AND FASTENER	:	**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 3, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of 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 program and petition fail to include:
(1) - (2) This application does not currently claim priority under 35 USC 119(a) to the JPO application (JP2006-219729) that contains the allowable claims.

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: 3/17/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,879	10/24/2007	Teruaki MATSUSHITA	P33263	8663

7055 7590 05/08/2008
GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER
MERLINO, ALYSON MARIE

ART UNIT	PAPER NUMBER
3673	

NOTIFICATION DATE	DELIVERY MODE
05/08/2008	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):

gbpatent@gbpatent.com
pto@gbpatent.com

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FROM DIRECTORS OFFICE

MAY 07 2008

TECHNOLOGY CENTER 3600

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re application of Teruaki Matsushita Application No. 11/877,879 Filed: October 24, 2007 For: FASTENING METHOS AND FASTENER	**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 April 14, 2008, to make the above-identified application special.

The request and petition are **DISMISSED as MOOT**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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 is not grantable as per item (4) above in that examination of the U.S. application has already begun. A restriction requirement was mailed April 15, 2008.

No time period for reply to this decision is available since examination of the application has already begun.

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: 5/7/08

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ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

MAILED

NOV 25 2009

OFFICE OF PETITIONS

Applicant: Michael Montemuro, et al.
Appl. No.: 11/877,906
Filing Date: October 24, 2007
Title: WLAN SCANNING BY PREVALENCE OF ACCESS POINT DEPLOYMENT ON CERTAIN CHANNELS
Attorney Docket No.: 291010-01133
Pub. No.: US 2009/0111466 A1
Pub. Date: April 30, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 16, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the benefit claim cross-referenced was not printed.

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

The error on the front page of the publication wherein the benefit claim to the provisional application was not printed maybe an Office error, but is not a material Office error under 37 CFR 1.221. The first paragraph of the specification contains the cross reference information, thus one can read and understand the content of the application. The omission of the cross reference does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or

[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).

determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The ADS received by the Office on October 24, 2007 and December 20, 2007, did not include the cross reference information. The ADS's submitted on December 20, 2007 and June 8, 2009 do not comply with 37 CFR 1.76(c).

It is noted that the Declaration submitted on December 20, 2007 does not contain a complete listing of all the inventors. See MPEP 605.04(a).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication** as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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

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

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/877,906	10/24/2007	Michael Montemurro	291010-01133	8702

3705 7590 04/02/2010
ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

EXAMINER
BOST, DWAYNE D

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
04/02/2010	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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ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH PA 15219

Applicant: Montemurro et al.
Appl. No.: 11/877,906
Filing Date: October 24, 2007
Title: WLAN SCANNING BY PREVALENCE OF ACCESS POINT DEPLOYMENT ON CERTAIN CHANNELS
Attorney Docket No.: 291010-01133
Pub. No.: US 2009/0111466 A1
Pub. Date: April 30, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on March 25, 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

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Adjustment date: 04/02/2010  KKING1
03/26/2010 INTEFSW  00000209 11877906
01 FC:1504                        -300.00 OP


Refund Ref:
04/02/2010            0030081930
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Credit Card Refund Total:      $300.00

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Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
James R. Mischler, et al.	:	
Application No. 11/877,925	:	DECISION ON PETITION
Filed: October 24, 2007	:	TO WITHDRAW
Attorney Docket No. 227977 (36708-24)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Jerome R. Drouillard 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: **James R. Mischler**
8303 Francis Road
Girard, PA 16417

cc: **General Electric Company**
1 River Road
Schenectady, NY 12345

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/877,925	10/24/2007	James R. Mischler	226953/227977 (36708-24)

CONFIRMATION NO. 8727

POWER OF ATTORNEY NOTICE

27256
Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

OC000000036109304

Date Mailed: 05/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2009.

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

/tswilliams/

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

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CST

August 27, 2009

In re application of Osamu Arimoto Serial No. 11/877,954 Filed: October 24, 2007 For: ELECTRODE FOR HYDROGEN GENERATION AND PROCESS FOR PREPARATION THEREOF	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d) :

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program, together with the preliminary amendment filed June 23, 2009.

The request and petition are **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Takaki MURATA	: DECISION ON REQUEST FOR
Patent Number	: 7601235	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/877,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

September 17, 2009

In re application of	:	DECISION ON REQUEST TO
Akiyoshi Manabe et al	:	PARTICIPATE IN PATENT
Serial No. 11/878,054	:	PROSECUTION HIGHWAY
Filed: July 20, 2007	:	PROGRAM AND
For: HYDROGEN COMBUSTION SYSTEM	:	PETITION TO MAKE SPECIAL
	:	UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed July 1, 2009.

The request and petition are **GRANTED**.

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

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

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

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

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

(5) Applicant must submit:

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

(6) Applicant must submit:

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

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

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

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

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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Paper No.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED

APR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Chaogang Lu, Wei Fu,	:	DECISION ACCORDING STATUS
Xingyue Quan, Xiaodong Li	:	UNDER 37 C.F.R. § 1.47(a)
and Jianfei He	:	
Application No. 11/878,056	:	
Filed: July 20, 2007	:	
Attorney Docket No. Q102700	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47(a) filed November 29, 2007.

The petition is **GRANTED**.

The above-identified application was filed on July 20, 2007, with an application data sheet but without an executed oath or declaration. By Notice to File Missing Parts of Nonprovisional Application mailed August 8, 2007, applicants were required to submit an executed declaration and the surcharge for its late filing. The Notice set a two (2) month time limit for response, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition (and petition fee), and the required late surcharge. The petition was made timely by an accompanying petition (and fee) for extension of time within the second month. Accompanying the petition was a declaration executed by joint inventors Fu, Quan, Li and He on behalf of themselves and on behalf of non-signing joint inventor Lu. Applicants assert that status under 1.47(a) is proper because joint inventor Lu cannot be found, after diligent effort, to join in the application.

By declaration of facts of Xiaoyan Bai, based on firsthand knowledge, applicants submit proof of efforts to locate inventor Lu. The declaration of facts details the efforts undertaken to locate inventor Lu, using resources available in China and explaining the absence of public directories of residence addresses. The petition includes English translations of the search results. Considering the proof submitted, it is concluded that applicants have made an adequate showing of the unavailability of inventor Lu.

In addition, the declaration filed November 29, 2007, has been reviewed and found in compliance with § 1.63. The petition includes payment of the petition fee and the last known address of inventor Lu.

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

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

It is noted that on November 29, 2007, applicants submitted with the petition a TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371. However, this application was filed as a 35 U.S.C. 111. It is not considered a national stage application filed pursuant to 35 U.S.C. 371.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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CHAOGANG LU
HUAWEI ADMINISTRATION
BUILDING
BANTIAN, LONGGANG DISTRICT
SHENZHEN
PEOPLE'S REPUBLIC OF CHINA
518129

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APR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Chaogang Lu, Wei Fu,	:	
Xingyue Quan, Xiaodong Li	:	
and Jianfei He	:	LETTER
Application No. 11/878,056	:	
Filed: July 20, 2007	:	
Attorney Docket No. Q102700	:	

Dear Mr. Lu:

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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.
11/878,080	07/20/2007	Jean-Robert Rapin	116422.01	6305

7590 07/22/2010
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
RAMACHANDRAN, UMAMAHESWARI

ART UNIT	PAPER NUMBER
1627	

NOTIFICATION DATE	DELIVERY MODE
07/22/2010	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

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

ATTN: Maquita Wong
The Hong Kong Polytechnic University
1800 Diagonal road
Suite 600, Mailbox #119
Alexandria VA 22314

COPY MAILED

OCT 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Kam-Tong Chan, et al.	:	
Application No. 11/878,175	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO WITHDRAW
Attorney Docket No. IP-376A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTN: MAQUITA WONG
THE HONG KONG POLYTECHNIC UNIVERSITY
1800 DIAGONAL ROAD, SUITE 600
MAILBOX #119
ALEXANDRIA, VA 22314

RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Limin Xiao, et al.	:	
Application No. 11/878,176	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO WITHDRAW
Attorney Docket No. IP-347A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to The Hong Kong Polytechnic University 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 undersigned at 571-272-1642.

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

cc: KAUTH, POMEROY, PECK & BAILEY, LLP
PO BOX 19152
IRVINE, CA 92623

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
11/878,176	07/23/2007	Limin Xiao	H6:02146

CONFIRMATION NO. 5913

POA ACCEPTANCE LETTER

71897
KAUTH , POMEROY , PECK & BAILEY ,LLP
P.O. BOX 19152
IRVINE, CA 92623

OC000000033419238

Date Mailed: 12/03/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/26/2008.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/878,176	07/23/2007	Limin Xiao	IP-347A

CONFIRMATION NO. 5913

POWER OF ATTORNEY NOTICE

ATTN: Maquita Wong
The Hong Kong Polytechnic University
1800 Diagonal Road, Suite 600
Mailbox #119
Alexandria, VA 22314

OC000000033418851

Date Mailed: 12/03/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/26/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ATTN: MAQUITA WONG
THE HONG KONG POLYTECHNIC UNIVERSITY
SUITE 600, MAILBOX #119
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

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NOV 04 2008

OFFICE OF PETITIONS

In re Application of	:	
TAM, Hwa Yaw et al.	:	
Application No. 11/878,177	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO WITHDRAW
Attorney Docket No. **09810690-0019**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2008.

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

A review of the file record indicates that the power of attorney to The Hong Kong Polytechnic University has been revoked by the assignee of the patent application on October 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: **SONNENSCHEIN NATH & ROSENTHAL LLP**
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

UNITED STATES PATENT AND TRADEMARK OFFICE

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BREINER & BREINER, L.L.C.
P.O. BOX 320160
ALEXANDRIA VA 22320-0160

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JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of
Thomas Dennis Meadows, Jr.
Application No. 11/878,203
Filed: July 23, 2007
Attorney Docket No. 6981

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 19, 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 23, 2007 with an unsigned oath or declaration, thus, a Notice to File Missing Parts was mailed October 25, 2007.

In response to the Notice to File Missing Parts, the instant petition, oath or declaration signed by joint inventor Meadows but not by joint inventor James Bryan Berry seeking status under 37 CFR 1.47, and claims that joint inventor Berry refuses to join in the application.

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

The petition bears proof that the application papers were forwarded to and received by C. Brandon Browning, counsel for non-signing inventor James Bryan Berry, who has indicated that Mr. Berry expressly refuses to cooperate with the filing of the instant application, and that to date, has not 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 inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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900-55 METCALFE STREET
OTTAWA ON K1P 5Y6
CANADA

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FEB 18 2009

OFFICE OF PETITIONS

In re Application of :
Dubuc et al. :
Application Number: 11/878283 : ON PETITION
Filing Date: 07/23/2007 :
Attorney Docket Number: 77682-402CIPC/aey :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION," filed on December 23, 2008.[1]

The petition is **dismissed**.

This application was held abandoned for failure to timely reply to the Office action requiring restriction and/or election mailed on March 17, 2008, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on November 4, 2008.

Petitioners assert that the Office action mailed on March 17, 2008, was never received. In support, petitioners have submitted a copy of a declaration by registered patent practitioner Robert Allan Brett, stating, in pertinent part, that "[h]ad the Restriction Requirement been received, it would have been noted in Exhibit G, a copy of the hand-written manual docket Journal kept by our Foreign Docketing Department indicating all pending due dates from March 20, 2008, through deadlines falling on April 18, 2008." A copy of the docket Journal, counsel's file management system printout, and a copy of the file jacket have been enclosed with the petition.

MPEP 711.03(c) states, in pertinent part:

[1] It is noted that the second sentence of the petition states that "this is a petition under 37 CFR 1.137(a)." Since no petition fee was paid, or authorization to charge a petition fee provided, however, and petitioners assert that the Office action was never received, the petition is properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

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

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

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted

> **as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> (emphasis added)

Petitioner has not provided a copy of the master docket for the firm, nor stated whether the docket record provided is a master docket.

Additionally, the docket Journal includes pages dated March 20, 21, 24, 25, 26, 27, 28, 31, and April 1, 2, and 3 of 2008. No pages covering March 17, 2008, the date the Office action was mailed, through March 20, 2008, have been provided. Additionally, no pages for April 4 through 18 of 2008 have been provided. Petitioners should provide the missing pages of the docketing Journal with any renewed petition.

In accordance with MPEP 711.03(c), a copy of the practitioner's record(s) required to show non-receipt of the Office action requiring restriction and/or election (Office action) mailed on March 17, 2008 should include the master docket for the firm. That is, if a one (1) month period for reply was set in the nonreceived Office action mailed on March 17, 2008, a copy of the master docket report showing all replies docketed for a date one (1) month from the mail date of the nonreceived Office action mailed on March 17, 2008 must be submitted as documentary proof of nonreceipt of the Office action mailed on March 17, 2008. 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.

Accordingly, the petition is dismissed, but such dismissal is without predjudice to reconsideration pending submission of the information requested above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[2]

---

[2] 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 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

SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA ON K1P 5Y6
CANADA

In re Application of	:	
Dubuc et al.	:	
Application Number: 11/878283	:	ON PETITION
Filing Date: 07/23/2007	:	
Attorney Docket Number: 77682-402CIPC/aey	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE DECISION ON THE 'PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION'" filed on April 17, 2009.

The petition is again **dismissed**.

This application was held abandoned for failure to timely reply to the Office action requiring restriction and/or election mailed on March 17, 2008, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on November 4, 2008.

The petition filed on December 23, 2008, to withdraw the holding of abandonment was dismissed on February 18, 2009.

Petitioners again assert that the Office action mailed on March 17, 2008, was never received. In the initial petition, petitioner's submitted a copy of a declaration by registered patent practitioner Robert Allan Brett, stating, in pertinent part, that "[h]ad the Restriction Requirement been received, it would have been noted in Exhibit G, a copy of the hand-written manual docket Journal kept by our Foreign Docketing Department indicating all pending due dates from March 20, 2008, through deadlines falling on April 18, 2008." A copy of the docket Journal, counsel's file management system printout, and a copy of the file jacket have been enclosed with the petition.

The renewed petition is also accompanied by, *inter alia*, a copy of the front and back of the file jacket, the application contents, counsel's daily search list for June 17, 2008, as well as counsel's Master Docket Reconciliation List showing all files docketed for June 17, 2008.

The previous decision stated, in pertinent part, that in accordance with MPEP 711.03(c), a copy of the practitioner's record(s) required to show non-receipt of the Office action requiring restriction and/or election (Office action) mailed on March 17, 2008 should include the master docket for the firm. That is, if a one (i) month period for reply was set in the nonreceived Office action mailed on March 17, 2008, a copy of the master docket report showing all replies docketed for a date one (i) month from the mail date of the nonreceived Office action mailed on March 17, 2008 must be submitted as documentary proof of nonreceipt of the Office action mailed on March 17, 2008. 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.

In this regard, it is noted that petitioner asserts that a copy of the master docket record showing replies docketed three (3) months from the mailing date of the Office action mailed on March 17, 2008 has been supplied. However, as the Office action mailed on March 17, 2008 set a one (1) month period for reply, the master docket record provided must be that showing all replies docketed one (1) month from the mailing date of the Office action mailed on March 17, 2008. It is not clear that a copy of the master docket record showing replies docketed one (1) month from the mailing date of the Office action mailed on March 17, 2008, has been supplied.

Accordingly, the petition is dismissed without prejudice to reconsideration pending submission of a master docket report showing all replies docketed one (1) month from the mailing date of the Office action mailed on March 17, 2008.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[1]

[1] 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 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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United States Patent and Trademark Office
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900-55 METCALFE STREET
OTTAWA ON K1P 5Y6
CANADA

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JAN 26 2010

In re Application of :
Dubuc et al. :
Application Number: 11/878283 : ON PETITION
Filing Date: 07/23/2007 :
Attorney Docket Number: 77682-402CIPC/aey :

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE 'DECISION ON THE 'PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION'" filed on December 18, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Office action requiring restriction and/or election mailed on March 17, 2008, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on November 4, 2008.

The petition filed on December 23, 2008, to withdraw the holding of abandonment was dismissed on February 18, 2009. The renewed petition filed on April 17, 2009, was dismissed on October 28, 2009.

Petitioners again assert that the Office action mailed on March 17, 2008, was never received. In the initial petition, petitioner's submitted a copy of a declaration by registered patent practitioner Robert Allan Brett, stating, in pertinent part, that "[h]ad the Restriction Requirement been received, it would have been noted in Exhibit G, a copy of the hand-written manual docket Journal kept by our Foreign Docketing Department indicating all pending due dates from March 20, 2008, through deadlines falling on April 18, 2008." A copy of the docket Journal, counsel's file management system printout, and a copy of the file jacket have been enclosed with the petition.
The renewed petition was also accompanied by, *inter alia*, a copy of the front and back of the file jacket, the application contents, counsel's daily search list for June 17, 2008, as well

as counsel's Master Docket Reconciliation List showing all files docketed for June 17, 2008.

The present second renewed petition is accompanied by, a copy of petitioner's Master Docket Reconciliation list for all cases due April 17, 2008, a daily search list for April 17, 2008, and a copy of the manual journal pages for March 17, 2008 to April 17, 2008.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

As a response to the restriction requirement mailed on March 17, 2008 was filed on December 23, 2008, there is no need to remail the restriction requirement.

The application is being referred to Technology Center Art Unit 2611 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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Alexandria, Virginia 22313-1450
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Young Hoon Oh	: DECISION ON REQUEST FOR
Patent Number	: 7616038	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/878,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **70** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 05/18/2010

Applicant : Young Hoon Oh
Patent Number : 7616038
Issue Date : 11/10/2009
Application No : 11/878,305
Filed : 07/23/2007

: 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 **126** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,347	07/24/2007	Kyu-sang Kim	2557-000637/US	8002

30593 7590 10/31/2008
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
NGUYEN, PHILLIP

ART UNIT	PAPER NUMBER
2828	

MAIL DATE	DELIVERY MODE
10/31/2008	PAPER

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

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
Kyu-Sang Kim, et al.	:	DECISION ON REQUEST TO
Application No. 11/878,347	:	PARTICIPATE IN PATENT
Filed: 07/24/2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 2557-000637/US	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed 30 September 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO, note where the KIPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the KIPO application with similar claims and the KIPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    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 KIPO 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 KIPO application(s) containing the allowable/patentable claim(s) or
ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the KIPO application is a first action allowance then no office action from the KIPO is necessary should be indicated on the request/petition form;

Further, if a copy of the documents from 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 KIPO 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 KIPO examiner in the KIPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition meet the requirements (1)-(3), and (5)-(7) above. This request to participate in the PPH program and petition fails to meet the requirements (4) above. Examination of the U.S. application has begun. A restriction requirement was mailed on 6 October 2008.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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

Michael Day
TQAS
Technology Center 2800- Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,347	07/24/2007	Kyu-sang Kim	2557SI-000637/US	8002

30593 7590 01/27/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
NGUYEN, PHILLIP

ART UNIT	PAPER NUMBER
2828	

MAIL DATE	DELIVERY MODE
01/27/2009	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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
Kyu-Sang Kim, et al.	:	**DECISION ON REQUEST TO**
Application No. 11/878,347	:	**PARTICIPATE IN PATENT**
Filed: 07/24/2007	:	**PROSECUTION HIGHWAY**
Attorney Docket No. 2557-000637/US	:	**PILOT PROGRAM AND PETITION**
	:	**TO MAKE SPECIAL UNDER**
	:	**37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed 30 September 2008, and request for reconsideration, filed 1 December 2008 to make the above-identified application special.

The request and petition are **DENIED**.

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO, note where the KIPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the KIPO application with similar claims and the KIPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    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 KIPO 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 KIPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the KIPO application is a first action allowance then no office action from the KIPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from 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 KIPO 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 KIPO examiner in the KIPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH pilot program and petition meets the requirements (1)-(3), and (5)-(7) above. This request to participate in the PPH pilot program and petition fails to meet the requirements (4) above. Examination of the U.S. application has begun. A restriction requirement was mailed on 6 October 2008, and a first office action on the merits was mailed 17 November 2008.

The application will remain in its regular status and will be taken up by the examiner for action in its regular turn.

Petitioner is reminded that a single opportunity to perfect the petition is given. Therefore, further petitions for participation in the Patent Prosecution Highway (PPH) pilot program in this application will not be entertained.

Response must be faxed to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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

Michael Day
TQAS
Technology Center 2800- Semiconductors,
Electrical & Optical Systems & Components

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 05/26/2010

Applicant	: Yoshiaki Nakayoshi	: DECISION ON REQUEST FOR
Patent Number	: 7655510	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/878,397	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **272** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUN 19 2009

OFFICE OF PETITIONS

JOE MCKINNEY MUNCY
PO BOX 1364
FAIRFAX VA 22038-1364

In re Application of	:	
Ming-Kuan Liao	:	
Application No. 11/878,415	:	ON PETITION
Filed: July 24, 2007	:	
Attorney Docket No. 4299/0220PUS1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 13, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed June 3, 2008. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on September 4, 2008. A Notice of Abandonment was mailed on March 4, 2009.

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

The application is being forwarded to Group Art Unit 2855 for consideration of the Amendment filed May 13, 2009.

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

Mail Date: 04/26/2010

Applicant	: Shun-Yu Hung	: DECISION ON REQUEST FOR
Patent Number	: 7584524	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/878,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **133** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED
JUL 23 2010
OFFICE OF PETITIONS

In re Application of	:	
Masato Yoshida, et al.	:	
Application No.: 11/878,504	:	ON PETITION
Filed: July 25, 2007	:	
Attorney Docket No.: 1204.38683VC3	:	

This is a decision on the petition, filed July 21, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 15, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3723 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Eiichiro Yoshikawa	: DECISION ON REQUEST FOR
Patent Number	: 7587815	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/878,551	: OF WYETH
Filed	: 07/25/2007	:
		:

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

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of
Masamitsu ITOH, et *al.*
Application No. 11/878,580
Filed: July 25, 2007
Attorney Docket No. **04329.4217**

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 4, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2825 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,603	07/25/2007	Jung-Soo An	P58301	8797

7590 10/22/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/22/2009	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

Repln. Ref: 10/22/2009 NFARMER 0017333900
DRN:024343 Name/Number:11878603
FC: 9204 $500.00 CR

Adjustment date: 10/22/2009 NFARMER
07/26/2007 SZEWDIE1 00000084 11878603
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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In re Application of :
Herrmann et al. :
Application No. 11/878,638 :
Filed: 07/25/2007 :
Attorney Docket No. 116686-00419 :

This is in response to the petition under 37 CFR 1.47(a), filed Monday, January 14, 2008. Applicants obtained an extension of time for response within the third month. Accordingly, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On January 14, 2008, applicants submitted, *inter alia*, the present petition, a declaration executed by one of the four joint inventors, a request for an extension of time for response within the third month and the requisite fees. Applicants asserted that on July 27, 2007, and December 19, 2007, they provided the non-signing inventors with copies of the application as filed, as evidenced by the e-mail correspondence accompanying the petition. Applicants stated that the non-signing inventors have refused to sign the declaration and have not responded to applicants' email correspondence of December 19, 2007.

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

As to item (1), applicants have not provided sufficient proof that the non-signing inventors were presented with a complete copy of the application as filed (specification, including the claims, drawings, if any, and the declaration). See MPEP 409.03(d).

Applicants did not provide any copies of email correspondence between applicants and inventors Alessi-Fox or Boger. Further, the email correspondence indicated that applicants provided the non-signing inventors with a copy of the provisional application on July 27, 2007, and a copy of the nonprovisional application on December 19, 2007. Applicants have not submitted sufficient proof that the non-signing inventors received the email correspondence of December 19, 2007, containing the nonprovisional application papers. Specifically, Beth Race, IP Administrator, stated in an email correspondence that she had some difficulty sending the application via email because the file was too big. Additionally, Joan R. Soll, Secretary, indicated that she did not have the email addresses for inventors Alessi-Fox or Boger in the file and requested assistance in locating them. Moreover, applicants did not provide any evidence that the email addresses of the non-signing inventors were current addresses, which the inventors regularly monitored.

Accordingly, in any renewed petition, applicants must show that the non-signing inventors were presented with a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) for the present nonprovisional application. In this case, as the applicants are aware of the non-signing inventors' last known addresses, it is suggested that applicants mail a copy of the application papers, return receipt requested, to each non-signing inventor.

Applicants may show that a copy of the application was mailed or presented to the non-signing inventor for review by providing a copy of the cover letter accompanying the application papers. Additionally, applicants may set forth the facts in an affidavit or statement by a person having first-hand knowledge of the events. If the application is returned as undeliverable, applicants should submit a copy of the envelope, showing that the copy of the application papers was sent to the last known address of the non-signing inventor, but was returned as undeliverable. Likewise, if the non-signing inventor refuses to execute the declaration in writing, applicants must submit a copy of that written refusal with any renewed petition. 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 applicants are unable to locate the non-signing inventor at the last known mailing address, applicants should explain their efforts to locate the non-signing inventor, including copies of any Internet searches for a current address, etc.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the residence, mailing address or country of citizenship for inventor Boger.

To correct the deficiencies, applicants must submit a **newly** executed oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the residence, mailing address, and country of citizenship of each inventor, and is signed by the signing inventor on behalf himself and the non-signing inventors. The signature lines for the non-signing inventors may be left blank.

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 sent via EFS-Web.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

COPY MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,547,563 :
Issue Date: June 16, 2009 :
Application No. 11/878,664 : ON PETITION
Filed: July 26, 2007 :
Attorney Docket No. 740756-3110 :

This is a decision on the petition filed June 18, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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QUINTERO LAW OFFICE, PC
2210 MAIN STREET, SUITE 200
SANTA MONICA, CA 90405

MAILED

NOV 06 2009

OFFICE OF PETITIONS

In re Application of :
Yu-Chiang Cheng et al :
Application No. 11/878,667 : ON PETITION
Filed: July 26, 2007 :
Attorney Docket No. 12025622

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 2, 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 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 08 2010
OFFICE OF PETITIONS

QUINTERO LAW OFFICE, PC
615 Hampton Dr, Suite A202
Venice CA 90291

In re Application of

Cheng, et al.

Application No. 11/878,667

Filed: July 26, 2007

Attorney Docket No. **12025622**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), March 9, 2010, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed November 19, 2009. The Notice set forth a three (3) month statutory period for reply. The fees were not received within the allowable period. Accordingly, this application became abandoned on February 20, 2010. A Notice of Abandonment was mailed March 8, 2010.

Form PTOL-85B, filed March 9, 2010, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,684	07/26/2007	Taro Sugizaki	SON-3800	1608

23353 7590 10/05/2009
RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER
STOWE, SCOTT C

ART UNIT	PAPER NUMBER
2826	

MAIL DATE	DELIVERY MODE
10/05/2009	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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Alexandria, VA 22313-1450
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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH Street NW, Suite 501
Washington, DC 20036

In re Application of Taro SUGIZAKI Application No.: 11/878,684 Filed: July 26, 2007 For: SEMICONDUCTOR DEVICE AND METHOD FOR AMNUFACTURING SEMICONDUCTOR DEVICE	: : : : : :	DECISION ON PETITION UNDER 37 CFR § 1.144

This is a decision on the petition filed on 17 July 2009 under 37 CFR 1.144 to reconsider the Restriction Requirement presented in the Final Office Action dated July 1, 2009.

The petition is **DENIED**.

Petitioner asserts that the restriction mailed on July 1, 2009 is in error because 1) the claims have already been searched and examined prior to the restriction and 2) the Restriction Requirement of July 1, 2009 does not detail how and why the pending method claims 31-39 would have been drawn to an invention that is independent and distinct from the previously examined method claims 11-20.

RESTRICTION PRACTICE

The restriction practice pertinent to the instant application and petition is outlined in the MPEP sections quoted below.

MPEP § 821.03 sets forth how to handle claims for a different invention added after an Office Action. Claims added by amendment following action by the examiner to an invention other than previously claimed, should be treated as indicated by 37 CFR § 1.145.

> *37 CFR 1.145. Subsequent presentation of claims for different invention.*
> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed,

> the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

MPEP § 803 sets forth two criteria for a proper requirement for restriction between patentably distinct inventions. MPEP § 803 states in pertinent part:

> Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 802.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).
>
> If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.
>
> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

The showing required to establish distinctness between a process of making and the product made is set forth in **MPEP § 806.05(f)** which states in pertinent part:

> A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process *as claimed* is not an obvious process of making the product and the process as *claimed* can be used to make another materially different product; or (B) that the product *as claimed* can be made by another materially different process.

The showing of burden required for a proper restriction requirement is outlined in **MPEP § 808.02** which states in pertinent parts:

> Where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:
>
> (A) **Separate classification thereof:** This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.
> (B) **A separate status in the art when they are classifiable together:** Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of

separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) **A different field of search:** Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

The explanation of Linking Claims is outlined in **MPEP § 809** which states in pertinent parts:

> There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the claims of the application to one would be proper, but presented in the same case are one or more claims (generally called "linking" claims) which, if allowable, would require rejoinder of the otherwise divisible inventions. See MPEP § 821.04 for information pertaining to rejoinder practice.
>
> Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required.

REVIEW OF FACTS

A Non-final Office action was mailed on March 17, 2009 rejecting claims 1-10 drawn to a semiconductor device and claims 11-20 drawn to a method for forming a semiconductor device, there being no patentable distinction between the claimed device and the claimed method to merit restriction (See MPEP 806.05(f)). In an amendment filed April 8, 2009, Applicant cancelled claims 1-20 and added claims 21-39 drawn to a semiconductor device (claims 21-30) and a method for manufacturing a semiconductor device (claims 31-39). In response to this amendment, the examiner set forth a restriction requirement, treating method claims 31-39 as being directed to a distinct method not previously examined in the Final Office Action mailed July 1, 2009.

1) Petitioner asserts that the restriction was done in error because the claims have already been searched and examined prior to the restriction.

This is not found to be persuasive because originally filed claims 1-20 were drawn to a semiconductor device and a broad method for forming a semiconductor device, there being no patentable distinction between the claimed device and the claimed method to merit a restriction requirement (See MPEP 806.05(f)). Examiner searched and examined claims 1-20 in the first Office Action, but pending claims 31-39 are drawn to a specific method not previously searched by the examiner. MPEP § 806.05(f) details the one way distinctness test and in this case the semiconductor device product of original claims 1-10 and pending claims 21-30 can be made by

another materially different process such as applying photoresist, patterning the photoresist, and implanting into the substrate through the patterned photoresist to form the four regions.

The device structure as set forth in original claim 1 and claim 21 are not considered patentably distinct because both are drawn to a device with multiple regions of differing conductivity types. The originally filed method claims 11-20 are directed to a method of forming a semiconductor device in broad terms without laying out the specific method steps. Pending method claims 31-39 are considered to be patentably distinct from the device claims 1-10 and 21-30 because they detail a specific method of forming those devices which uses a gate electrode with sidewalls to form the regions of differing conductivity.

Originally filed method claims 11-20 (now cancelled) would have been considered linking claims (See MPEP 809) which link the claimed device to the claimed method. The pending method claims 31-39 are considered distinct from the originally filed device claims 1-10 and claims 21-30, because the device claims do not require a particular process step that is distinctive from other process steps. In particular the product as claimed can be made by another materially different process (See MPEP 806.05(f)) as detailed above.

As such, the method claims 31-39 are directed to an invention that is patentably distinct from the device claims.

2) Petitioner also asserts that the Final Office Action which includes a Restriction Requirement of July 1, 2009 has no showing detailing how and why any of the method claims 31-39 would have been drawn to an invention that is independent and distinct from the previously examined method claims 11-20.

In the Office action mailed on July 1, 2009 the examiner established distinctness between a process of making and the product made as set forth in MPEP § 806.05(f). The product *as claimed* in claims 21-30 can be made by another materially different process, the alternative process given is applying a photoresist, patterning the photoresist, and implanting into the substrate through the patterned photoresist to form the four regions. This method does not require the use of an electrode and sidewalls for the forming of the different regions as required by applicant's pending claims 31-39.

Claims 31-39 are drawn to a different method that is distinct from the originally filed device claims 1-10 and pending device claims 21-30 as detailed above, with claims 11-20 (now cancelled) acting as linking claims (see MPEP 809). If method claims 11-20 had not been cancelled by the Petitioner, they would have been examined with the device claims 21-30 as linking claims.

As such, the Final Rejection of July 1, 2009 did establish how and why method claims 31-39 were drawn to an invention that is independent and distinct from the device claims.

Accordingly, the examiner properly restricted and withdrew from consideration newly filed method claims 31-39 as being drawn to an invention that is independent or distinct from the originally claimed invention, and the petition is denied.

Any question regarding this communication should be directed to Sue Purvis, Supervisory Patent Examiner, at (571) 272-1236.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,691	07/26/2007	Shinya Kumagai	061352-0160	2033

53080 7590 03/10/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER
LEBENTRITT, MICHAEL

ART UNIT	PAPER NUMBER
2812	

MAIL DATE	DELIVERY MODE
03/10/2008	PAPER

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McDERMOTT, WILL & EMERY, LLP
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096

MAR 10 2008

In re Application of	:	**DECISION ON REQUEST TO**
Shinya KUMAGAI, *et. al.*	:	**PARTICIPATE IN PATENT**
Application No. 11/878,691	:	**PROSECUTION HIGHWAY**
Filed: July 26, 2007	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 061352-0160	:	**TO MAKE SPECIAL UNDER**
For: METHOD FOR PRODUCING SINGLE ELECTRON SEMICONDUCTOR ELEMENT	:	**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 December 12, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

DISCUSSION

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

(1) The U.S. application to validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, or a national stage application under PCT which validly claims priority under 35 U.S.C. 119(a)/365(b) to one or more applications filed in the JPO;
(2) A copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof, and a statement that the English translation is accurate;
(3) All the claims in the U.S. application to sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) A copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof, and a statement that the English translation is accurate;
(6) An IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

* * * * * * * *

Conditions (2) to (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (1) above.

Regarding the requirement of condition (1), the instant application is filed under 35 USC 111(a), which validly claims priority under 35 USC 120 to a PCT application (PCT/JP 2006/323730),

which PCT application validly claims priority under 35 USC 365(b) to one or more applications filed in the JPO (JP 2006-028438). However, the since the JP national application containing the allowable/patentable claims (JP 2007-517670) is a JP application other than the priority application, applicant must indicate how the JP national application with the allowable/patentable claims is related to the JP priority application. See "Revised Requirements for Requesting Participation in the Patent Prosecution Highway pilot Program in the USPTO," dated May 17, 2007, next to last paragraph.

A proper response in this case must include:

(a) an explanation how the JP national application (JP 2007-517670) with the allowable/patentable claims is related to the JP priority application (JP 2006-028438).

CONCLUSION

For the above reasons, the "Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the JPO and the USPTO" filed 12/12/2007 is **DISMISSED** without prejudice.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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

Michael Day
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,691	07/26/2007	Shinya Kumagai	061352-0160	2033

53080 7590 04/29/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER
LEE, CHEUNG

ART UNIT	PAPER NUMBER
2812	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

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

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

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600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096

In re Application of	:	**DECISION ON REQUEST TO**
Shinya KUMAGAI, *et. al.*	:	**PARTICIPATE IN PATENT**
Application No. 11/878,691	:	**PROSECUTION HIGHWAY**
Filed: July 26, 2007	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 061352-0160	:	**TO MAKE SPECIAL UNDER**
For: METHOD FOR PRODUCING SINGLE ELECTRON SEMICONDUCTOR ELEMENT	:	**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 December 12, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

DISCUSSION

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

(1) The U.S. application to validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, or a national stage application under PCT which validly claims priority under 35 U.S.C. 119(a)/365(b) to one or more applications filed in the JPO;
(2) A copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof, and a statement that the English translation is accurate;
(3) All the claims in the U.S. application to sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) A copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof, and a statement that the English translation is accurate;
(6) An IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

* * * * * * * *

It is noted with regret that the Applicants did not receive, and were unaware of, the Decision to Dismiss the request to participate in the Patent Prosecution Highway (PPH) pilot program dated March 10, 2008. Fortunately, the petition for reconsideration of the Decision to Dismiss the request to participate in the Patent Prosecution Highway (PPH) pilot program was received by the Patent and Trademark Office on April 24 2008 which is within one month or 30 days from

the time that the Applicants became aware of the Decision to Dismiss. Consequently, the petition for reconsideration of the Decision to Dismiss is considered timely filed. Furthermore, a proper response in this case was received concurrently on April 24, 2008 and included an explanation how the JP national application (JP 2007-517670) with the allowable/patentable claims is related to the JP priority application (JP 2006-028438).

CONCLUSION

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

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652 unless this is a request from the pilot program in which case a fax submission is also acceptable. Fax may be sent to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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

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

Michael Day
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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MAIL

OCT 2 8 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of OZAKI, OSAMU Application No. 11/878,722 Filed: July 26, 2007 Attorney Docket No. **133085**	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed February 17, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,725	07/26/2007	Shinichiro Izawa	133358	1231

7590 03/06/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
IM, JUNGHWA M

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 03/10/2009 BPOWELL
07/27/2007 CHGUYEN2 00000059 11878725
02 FC:1111 -500.00 OP

Adjustment Date: 03/10/2009 BPOWELL
12/18/2007 INTEFSW 00002270 033975 11958008
02 FC:1111 510.00 CR

FORM PET651G (Rev. 08/07)

Repln. Ref: 03/10/2009 BPOWELL 0015010600
DA#:150461 Name/Number:11878725
FC: 9204 $500.00 CR

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.
11/878,726	07/26/2007	Shinichiro Izawa	133359	2075

7590 03/06/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
YE, LIN

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Keepin. Ref: 03/06/2009 BPOWELL 0010384300
DA#:150461 Name/Number:11878726
FC: 9204 $500.00 CR

Adjustment date: 03/06/2009 BPOWELL
07/27/2007 CNGUYEN2 00000060 11878726
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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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.
11/878,730	07/26/2007	Atsushi Kamada	132594	1232

7590 06/11/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
LI, CE LI

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
06/11/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
06/11/2009 NFARMER 0000167533

CHECK Refund Total: $500.00

Adjustment date: 06/11/2009 NFARMER
07/27/2007 CNGUYEN2 00000064 11878730
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of	
BJERKEN, David	
Application No. 11/878,775	DECISION ON PETITION
Filed: July 26, 2007	TO WITHDRAW
Attorney Docket No. **10055.011.00**	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 27, 2009.

The request is **APPROVED**.

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

The request was signed by Michael Angert on behalf of all attorneys of record who are associated with customer No. 30827. All attorneys/agents associated with the Customer Number 30827 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David Bjerken 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: **DAVID BJERKEN**
1543 BRENTWOOD DRIVE
MARIETTA GA 30062

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

Applicant: Pieper et al.
Appl. No.: 11/878,856
Filing Date: July 27, 2007
Title: SOFT MAGNETIC IRON-COBALT-BASED ALLOY AND METHOD FOR ITS PRODUCTION
Attorney Docket: 0070747-000003
Pub. No.: US 2008/0099106 A1
Pub. Date: May 1, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 13, 2008, for the above-identified application. Material Office error was alleged in entering preliminary amendment as to the claims and as to the specification, and further, misprinting originally filed and unamended ">" signs in claims 22 and 23 as "≥" signs.

The request is granted-in-part.

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 request is granted with respect to the claims.

The error noted by requestor with respect to the preliminary amendment to the specification is <u>not</u> an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the specification in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a). Amendments to the specification must be added by a substitute specification to be included in a patent application publication. MPEP 1121(I). The amendment

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

was not by way of substitute specification. Therefore, Office policy is not to include such amendments in the publication.

Further note that correction of errors due to poor quality text, such as the poorly visible strikethrough of "~~a~~" in the preliminary amendment, will not form the basis for a material error for corrected publication. See MPEP 1121(I).

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

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs

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

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

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JUL 01 2009

OFFICE OF PETITIONS

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

In re Application of	:	
Young-Soo Park et al	:	
Application No. 11/878,868	:	DECISION ON PETITION
Filed: July 27, 2007	:	TO WITHDRAW
Attorney Docket No. 2557SI-001251/US/DVA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

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

A review of the file record indicates that the power of attorney to the attorneys associated with customer no. 27849 has been revoked by the assignee of the patent application on May 13, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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

Steven W. Weinrieb
LAW OFFFICES OF STEVEN W. WEINRIEB
8717 Cold Spring Road
Potomac, MD 20854

Mail Date: 04/26/2010

Applicant	: Greg Holderfield	: DECISION ON REQUEST FOR
Patent Number	: 7617957	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/878,870	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **120** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WWW.USPTO.GOV

Paper No.

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

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DEC 26 2007

OFFICE OF PETITIONS

In re Application of :
Simon E. Lee, Luis Ponce De :
Leon Saenz, Pierre-Yves CA :
Reynaud, Nicholas Anthony :
Salmon, and Kevin A. White :
Application No. 11/878,876 : DECISION ON PETITION
Filed: July 27, 2007 : PURSUANT TO 37 C.F.R.
Attorney Docket Number: 85033 : § 1.47(A)
3741 KAW :
Title: AEROENGINE WASHING :
SYSTEM AND METHOD :

This is in response to the petition under 37 C.F.R. § 1.47(a)[1], filed November 5, 2007.

On July 27, 2007, the application was filed, identifying Simon E. Lee, Luis Ponce De Leon Saenz, Pierre-Yves CA Reynaud, Nicholas Anthony Salmon, and Kevin A. White as joint inventors. The

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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.

application was deposited without an executed oath or declaration. On August 16, 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 a declaration that has been signed by each of the joint inventors save Mr. Ponce De Leon Saenz, the fee that is associated with the late submission of the same, the petition fee, a statement of facts, a copy of a letter, and a copy of a Federal Express tracking report. A one-month extension of time has been charged to Petitioner's Deposit Account, so as to make timely this response.

Petitioner has asserted that a complete copy of the application was sent to the non-signing inventor, and the same has refused to sign the declaration.

Petitioner has met each of the five 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 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
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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SEP 11 2008

In re Application of	:	
Jun et al.	:	
Application No. 11/878896	:	
Filing or 371(c) Date: 07/27/2007	:	
Attorney Docket Number:	:	
MR1957-1588	:	ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed June 30, 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 16, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned October 17, 2007. A Notice of Abandonment was mailed January 3, 2008.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450 Alexandria, VA 22313-1450
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NOV 19 2007

OFFICE OF PETITIONS

LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

In re Application of
Roger Francis Golder et al.
Application No. 11/878,905
Filed: July 27, 2007
Attorney Docket No. 0127/0008

: 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 30. 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 27, 2007, with an un-executed oath or declaration. Accordingly, on August 16, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, 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 one month extension of time request and a declaration executed only by joint inventor Golder but not by joint inventor Terrance George Copeland. Petitioner claims that joint inventor Copeland refuses to sign the declaration and thus by his actions to cooperate with the filing of the instant application.

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

(1) proof that the non-signing inventor cannot be reached or 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 refer to an email whereby joint inventor Copeland acknowledged reviewing the application papers for the instant application. However, while the non-signing inventor expressly refuses to sign the oath or declaration the evidence presented does not show that complete copies of the application materials were provided to Mr. Copeland. Exhibit C references an "e-mail" but does not include the "e-mail" which might be proof that the non-signing inventor had been provided with a copy of the application.

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).

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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LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of
Roger Francis Golder et al.
Application No. 11/878,905
Filed: July 27, 2007
Attorney Docket No. 0127/0008

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the request for reconsideration filed under 37 CFR 1.47(a) on January 16, 2008.

The petition is **GRANTED**.

The above-identified application was filed on July 27, 2007, with an un-executed oath or declaration. Accordingly, on August 16, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. A petition was filed October 30, 2007 with a request for a one month extension of time and sought status under 37 CFR 1.47, claiming joint inventor Terrance George Copeland refused to execute the declaration. The petition was dismissed in a decision mailed November 19, 2007 because petitioners had not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) had been sent to the non-signing inventor.

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

In response to the decision dismissing the petition filed October 30, 2007, the instant petition shows that a complete application has been sent to non-signing inventor Terrance George Copeland and that he has, by his actions, refused to cooperate with the filing of the instant application.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will

also be published in the Official Gazette.

This matter is being 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

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

Tangent Law Group
601 Pennsylvania Avenue, NW
Suite 900
Washington DC 20004

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Bruce Johnson	:	
Application No. 11/878,913	:	ON PETITION
Filed: July 27, 2007	:	
Attorney Docket No. SP-010	:	

This is in response to the petition under 37 CFR 1.137(b) filed June 17, 2009.

The above-identified application was filed on July 27, 2007, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on August 14, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and payment of the search and examination fees. The Notice set a shortened period for reply of two months from its mailing date. A response was not received within the allowable period and the application became abandoned on October 15, 2007.

The declaration filed June 17, 2009, is noted.

It is noted that the Office records indicate that the petition fee, on filing, was lacking $300.00. It is also noted that the application file is credited $865.00 on June 17, 2009, for a request for an extension of time within the fourth month. It is noted that the request for extension of time within the fourth month is not necessary, nor can it be granted, because the request was after the expiration of the maximum period for reply to the Notice of Missing Parts of Non-Provisional Application. Accordingly, $300.00 will be taken from the $865.00 to complete the petition fee of $810.00. Petitioner will be refunded $565.00, in due course.

This application is being forwarded to the Office of Patent Application Processing for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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DEC 1 0 2007

OFFICE OF PETITIONS

DECISION GRANTING PETITION

In re Application of :
Jonas Robertson :
Application No.11/878,967 :
Filed: July 30, 2007 :
Attorney Docket No. E2ABU081.16 :

This is a decision on the petition filed November 14, 2007, requesting that the above-identified application be accorded a filing date of July 30, 2007, with 6 sheets of drawings as part of the original disclosure.

On July 30, 2007, the above-identified application was filed. On August 14, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Non-provisional Application" (the "Notice"), stating that the application had not been accorded a filing date because drawings were not found with the original filing, but believed to be necessary to understand the invention claimed. Notice allowed for a two-month period for reply beginning from the mailing date of the Notice[1].

In response, on November 14, 2007, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, six sheets of drawings were received on July 30, 2007.

Upon review of the record, no drawings have been located among the application papers. However, the evidence is convincing that the application papers deposited July 30, 2007, included six sheets of drawings, which were subsequently misplaced by the Office. Therefore, the application, including six sheets of drawings, was complete on filing and entitled to the presently accorded filing date of July 30, 2007.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that the instant petition was not filed within the two-month period prescribed the Notice of Incomplete Non-provisional Application. The Office will exercise its discretion and not dismiss the petition as untimely, but treat it on its merits.

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RACINE, WI 53403

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OFFICE OF PETITIONS

In re Application of	
John D. Bilotti	
Application No. 11/878,968	DECISION ON PETITION
Filed: July 30, 1997	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 July 30, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required.

Petitioner declares that he is suffering from multiple medical conditions. The petition was accompanied by a letter from Dr. Ernesto E. Buecamino, Mr. Bilotti's physician. Although petitioner declares that he may not be able to assist in the prosecution of the present application if it were to run its normal course, the petitioner's physical conditions, as summarized by Dr. Buecamino, do not appear to life threatening, at this time, and can be treated and managed with the proper medications.

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3654 for action in its regular turn.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
John D. Bilotti	:	
Application No. 11/878,968	:	DECISION ON PETITION
Filed: July 30, 1997	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed January 28, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a medical certificate from Dr. Buencamino on applicant John D. Bilotti's behalf. The medical conditions described are sufficient to grant this petition. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3654 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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In re Application of	:	
John D. Bilotti	:	
Application No. 11/878,968	:	ON PETITION
Filed: July 30, 2007	:	
Attorney Docket No. BLT-101US	:	

This is a decision on the petition to expunge proprietary documents supporting a petition to Make Special, filed January 28, 2008, under the provisions of 37 CFR 1.59(b).

The petition to expunge is **DISMISSED**.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.59 (b) to expunge information submitted under MPEP § 724.02, or that should have been submitted under MPEP § 724.02, must be accompanied by: (A) a clear identification of the information to be expunged without disclosure of the details thereof; (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public; (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b). See MPEP 724.05 (I). The instant petition lacks item(s) (C).

The instant petition fails to include any statement that could be construed as a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

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

By Mail: Mail Stop PETITION
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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 Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

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JANSSON SHUPE & MUNGER LTD.
245 MAIN STREET
RACINE WI 53403

4/5/09

In re Application of
BILOTTI, JOHN D.
Appl. No.: 11/878,968
Filed: Jul. 30, 2007
Atty. Docket No: SP-07-186
For: ACCESSORY FACILITATING MANUAL DISPENSING OF TOILET PAPER

DECISION ON PETITION
Under 37 CFR 1.59

This is a decision on the renewed petition under 37 CFR 1.59(b), filed Sep. 23, 2008 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document related to the applicant's health filed with the previous petition to make special under 37 CFR 1.102(c)(1) on January 28, 2008 based on applicant's health as set forth in M.P.E.P. § 708.02, Section III be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination and patentability of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent that issues on the above-identified application. The expunged material has been removed from the official file. It is contained in a non-public Artifact folder associated with the file and will not be returned to applicant.

Any questions regarding this petition decision should be directed to Henry Yuen, Technology Center, Special Programs Examiner at 571 – 272-4568.

Petition Granted.

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/878,994	07/30/2007	Takanori Kaji	008312-0362529	1994

7590 07/16/2010
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER
TSANG, FAN S

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
07/16/2010	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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/16/2010 NFARMER
07/31/2007 AWONDAFI [illegible] 083975 11878994
22 PO:1111 [illegible]

FORM PET651G (Rev. 08/07)

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OFFICE OF PETITIONS

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of	:
Pojer, et al.	: DECISION REFUSING STATUS
Application No. 11/879,026	: UNDER 37 CFR 1.47(a)
Filed: July 13, 2007	:
Atty. Dkt. No.: 95-000210US	:
For: METABOLIC ENGINEERING OF	:
LIPID METABOLISM BY IMPROVING	:
FATTY ACID BINDING AND	:
TRANSPORT	:

This decision is in response to the petition under 37 CFR 1.47(a) filed December 10, 2007.

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 July 13, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed September 6, 2007. The Notice required, *inter alia*, 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 have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or

declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioners allege that the application papers were mailed to the non-signing inventor at the non-signing inventor's last known address, but that the USPS returned the package containing the documents to sender as "unclaimed." The petition further sets forth that former colleagues of the non-signing inventor do not know the non-signing inventor's whereabouts. The petition also states that assignee's human resources department does not have a forwarding address for the non-signing inventor.

The evidence presented does not establish why the package was "unclaimed." It is unclear if the package was returned to sender "unclaimed" as a result of the recipient's failure to claim the package or if the address indicated on the package was no longer an accurate address for the recipient.

To the extent that petitioners allege the non-signing inventor has refused to execute the oath or declaration, 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. It is noted that the last known address indicated is a post office box.

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.

To the extent that petitioners alleges the non-signing inventor cannot be reached or located, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification,

including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (4), the last known address of the non-signing inventor has been provided.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing 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 non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP §§ 409.03(e) and 605.03.

Accordingly, should further investigation reveal a more accurate last known address for the non-signing inventor, such address should be submitted to the Office.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulaney 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

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of	:
Pojer, et al.	: DECISION REFUSING STATUS
Application No. 11/879,026	: UNDER 37 CFR 1.47(a)
Filed: July 13, 2007	:
Atty. Dkt. No.: 95-000210US	:
For: METABOLIC ENGINEERING OF	:
LIPID METABOLISM BY IMPROVING	:
FATTY ACID BINDING AND	:
TRANSPORT	:

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed January 3, 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).

Petitioners indicate that the previously non-signing inventor is now available to execute a declaration for the instant application for patent. The two page declaration submitted herewith is not acceptable as it fails to identify the entire inventive entity in accordance with 37 CFR 1.63(a)(1) through (3).

Any request for reconsideration of this matter must included a properly executed oath or declaration in accordance with 37 CFR 1.63 and 1.64.

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

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

By facsimile: (571) 273-8300

By 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

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In re Application of	:
Pojer, et al.	: DECISION REFUSING STATUS
Application No. 11/879,026	: UNDER 37 CFR 1.47(a)
Filed: July 13, 2007	:
Atty. Dkt. No.: 95-000210US	:
For: METABOLIC ENGINEERING OF	:
LIPID METABOLISM BY IMPROVING	:
FATTY ACID BINDING AND	:
TRANSPORT	:

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed November 3, 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).

Petitioners indicate that the previously non-signing inventor is now available to execute a declaration for the instant application for patent and have provided a declaration. The declaration, however, fails to satisfy 37 CFR 1.56.

Effective June 1, 2008, the Office will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. All oaths or declarations filed on or after June 1, 2008, are required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3), i.e., must 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." *See*, 1327 O.G. 45.

Any request for reconsideration of this matter must include a newly executed oath or declaration in accordance with 37 CFR 1.63, 1.64, and 1.56.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By 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

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P O BOX 458
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In re Application of	:
Pojer, et al.	: DECISION GRANTING STATUS
Application No. 11/879,026	: UNDER 37 CFR 1.47(a)
Filed: July 13, 2007	:
Atty. Dkt. No.: 95-000210US	:
For: METABOLIC ENGINEERING OF	:
LIPID METABOLISM BY IMPROVING	:
FATTY ACID BINDING AND TRANSPORT	:
	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 19, 2009.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor either cannot be reached for presentation of the application papers or has refused to join in the filing of the above-identified application.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-2305.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Elise S. Larsen
PO BOX 402
Alpine, CA 91901

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In re Application of
Pojer, et al.
Application No. 11/879,026
Filed: July 13, 2007
Atty. Dkt. No.: 95-000210US
For: METABOLIC ENGINEERING OF LIPID METABOLISM BY IMPROVING FATTY ACID BINDING AND TRANSPORT

Dear Madam:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. 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).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 12 2009

OFFICE OF PETITIONS

Applicant: Albrecht
Appl. No.: 11/879,030
Filing Date: July 12, 2007
Title: SYSTEMS AND METHODS FOR A HOLISTIC WELL-BEING ASSESSMENT
Attorney Docket No.: LIME-1-1002
Pub. No.: US 2008/0109257 A1
Pub. Date: May 8, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 9, 2008, for the above-identified application

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein Figure 3 contains a derogatory word. The corrected version was filed in the preliminary amendment of January 2, 2008.

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 noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment with the drawings in the publication by the Office because 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).

application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a), [2] which says the following, in part:

> (a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Applicant did not file a copy of the application in compliance with the Office electronic filing systems requirements.

Furthermore, the amendment to the drawings is improper and not in compliance with 37 CFR 1.121(d), as the page of drawings was not labeled "Replacement Sheet" as required in the rule. The application was properly published with the drawings in the application file.

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

Applicants' request for a corrected patent application publication on May 9, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication."

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUL 24 2008

In re Application of	:	
MACKHOUSE, Jack	:	
Application No. 11/879,048	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No. **WELL0071**	:	FROM RECORD
	:	

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 26, 2008.

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

A review of the file record indicates that the power of attorney to Glenn Patent Group has been revoked by the assignee of the patent application on July 08, 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: **FOLEY & LARDNER**
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE WI 53202-5306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Mehul R. Jani
Black & Decker Corporation
Mail Stop TW199
701 E. Joppa Rd
Towson MD 21286

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JUN 0 9 2008

In re Application of	:	
Carl Merhar, Stephen Vick	:	DECISION REFUSING STATUS
Steve Carnal and Vincent Chen	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/879,056	:	
Filed: July 16, 2007	:	
Atty Docket No. P-US-JK-10903	:	

This is a decision on the PETITION TO FILE ON BEHALF OF INVENTOR WHO REFUSES TO JOIN IN APPLICATION UNDER 37 C.F.R. § 1.47 filed December 28, 2007.

The petition is **DISMISSED**.

Rule 47 applicants 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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath(s) or declaration(s) executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on July 16, 2007, with an application data sheet and an unexecuted declaration. Accordingly, on August 2, 2007, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and the surcharge for late filing under § 1.16(e). This Notice set a two-month

time limit for reply, with extensions of time obtainable under 37 CFR 1.136(a).

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee and the late surcharge. This response is made timely by a petition and fee for extension of time for response within the third month. The petition includes a four-page declaration executed by the available joint inventors on behalf of themselves and on behalf of non-signing inventor Chen. Rule 47 applicants assert that status under § 1.47(a) is proper because inventor Chen has refused to join in the application for patent. In support thereof, applicants submit statements of fact of Mr. Andrew Lai and co-inventor Carl Merher.

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

Requirements (1), (3) and (4) have been satisfied.

It is noted that the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. See MPEP 409.03(d). In this instance, the proof submitted supports a conclusion that initially inventor Chen did not sign due to his being in recovery from an operation. However, the proof submitted supports a conclusion that after his recovery inventor Chen continued to refuse to join in the application, by not responding to repeated attempts for his signature. Thus, the petition under § 1.47 is appropriate.

By statements of fact of Mr. Lai and co-inventor Merher, and supporting documentary evidence, petitioner has shown that inventor Chen, by his conduct in not responding to the request to sign the declaration, has refused to join in the application. The petition includes a showing that all of the application papers were delivered to inventor Chen by FedEx delivery.

The required petition fee of $200 has been charged to petitioner's Deposit Account, as authorized. The declaration of facts includes a statement of the last known address of the non-signing inventor.

However, the petition is not grantable because it does not satisfy requirement (2) above. The declaration submitted is not acceptable. It is permissible for the inventors to sign separate declarations. Nonetheless, as stated in MPEP 605.04(a), an oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Accordingly, applicants must submit to the Office each declaration in its entirety and not just the signature pages of some. In this instance, pages numbered 1, 2, 2 and 3 of declarations including the signature page of each inventor were submitted. On request for reconsideration, submissions of declarations in their entirety as executed by each inventor are required.

On renewed petition, applicants need only supply the complete copies of each declaration as executed by each of the available joint inventor. A declaration executed by inventor Chen (along with the complete copies of the other declarations) is also a proper response to this decision. However, applicants are reminded that a declaration with non-dated and non-initialled changes is unacceptable.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219. To facilitate quick action on the renewed petition, applicants may submit the renewed petition and declarations by EFS-Web and telephone the undersigned when they have been made of record.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

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Black & Decker Corporation
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Towson MD 21286

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DEC 22 2008

In re Application of	:	
Carl Merhar, Stephen Vick	:	DECISION ACCORDING STATUS
Steve Carnal and Vincent Chen	:	UNDER 37 C.F.R. § 1.47(a)
Application No. 11/879,056	:	
Filed: July 16, 2007	:	
Atty Docket No. P-US-JK-10903	:	

This is a decision on the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a) filed June 20, 2008.

The petition is **GRANTED**.

The above-identified application was filed on July 16, 2007, with an application data sheet and an unexecuted declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application," mailed August 2, 2007, on December 28, 2007, applicants filed the initial PETITION TO FILE ON BEHALF OF INVENTOR WHO REFUSES TO JOIN IN APPLICATION UNDER 37 C.F.R. § 1.47, including the petition fee and the late surcharge. Rule 47 applicants asserted that status under § 1.47(a) is proper because inventor Chen has refused to join in the application for patent. In support thereof, applicants submitted statements of fact of Mr. Andrew Lai and co-inventor Carl Merher.

By decision mailed June 9, 2008, the petition was dismissed. A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration

after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Requirements (1), (3) and (4) were satisfied. However, the declarations submitted were not acceptable as the declarations in their entirety as presented to each signing inventor were not submitted.

On request for reconsideration, applicants submitted declarations in their entirety as executed by each of the available joint inventors on behalf of themselves and on behalf of non-signing joint inventor Chen.

The declarations filed June 20, 2008 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 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
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Alexandria, VA 22313-1450
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VINCENT CHEN
TAICHUNG CITY, SOUTH DISTRICT
GONG XUE 1ST STREET
242 LANE, NO. 8
TAIWAN

COPY MAILED
DEC 22 2008

In re Application of :
Carl Merhar, Stephen Vick :
Steve Carnal and Vincent Chen : LETTER
Application No. 11/879,056 :
Filed: July 16, 2007 :
Atty Docket No. P-US-JK-10903 :

Dear Mr. Chen:

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

Mehul R. Jani
Black & Decker Corporation
Mail Stop TW199
701 E. Joppa Rd
Towson MD 21286

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PATTERSON, THUENTE, SKAAR
& CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

COPY MAILED

MAY 27 2008

In re Application of	:	
PRYD-KAKUK, Lexann	:	
Application No. 11/879,058	:	DECISION ON PETITION
Filed: July 16, 2007	:	TO WITHDRAW
Attorney Docket No. **3949.01US02**	:	FROM RECORD
	:	

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 **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 Erik M. Drange on behalf of all attorneys of record who are associated with customer No. 24113. 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 Lexann Pryd-Kakuk at the address indicated below.

There is an outstanding Office action mailed January 07, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LEXANN T. PRYD-KAKUK**
79 WOODHILL ROAD
ST. CLOUD, MN 56301

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

LEXANN T. PRYD-KAKUK
79 WOODHILL ROAD
ST. CLOUD MN 56301

MAILED

JUN 12 2009

OFFICE OF PETITIONS

In re Application of
Lexann Pryd-Kakuk
Application No. 11/879,058
Filed: July 16, 2007
For: Memory Container and Method of Memorializing A Life

DECISION ON PETITION

This is a decision on the petition, filed January 26, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit corrected drawings on or before December 22, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 22, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on December 22, 2008, which included the following papers: replacement drawings. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing, dated December 22, 2008, which would have rendered the reply timely if received.

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

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowability of September 22, 2008 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on December 22, 2008.

This application is being referred to the Office of Data Management for appropriate action in the normal course of business on the reply received with petition.

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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JASON S. MILLER
CLEMENTS WALKER
SUITE 300
1901 ROXBOROUGH ROAD
CHARLOTTE NC 28211

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of	:	
REEVES, Eric William	:	
Application No. 11/879,135	:	DECISION ON PETITION
Filed: July 16, 2007	:	TO WITHDRAW
Attorney Docket No. **4664CIP**	:	FROM RECORD
	:	

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 10, 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 Russell M. Racine on behalf of all attorneys of record who are associated with customer No. 22474. 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 Eric William Reeves at the address indicated below.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ERIC W. REEVES**
P.O. BOX 30683
CHARLOTTE, NC 28230

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: 03/11/10

Patent No. : 7614739 B2
Ser. No. : 11/879,141
Inventor(s) : ANAMI, AKIRA
Issued : 11/10/09
Title : **RECORDING APPARATUS WITH MOVABLE DISCHARGE TRAY**
Docket No. : **109659-59742**

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

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

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

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

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

By fax: (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) 756-1574 or (703) 305-8309

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

LMN

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

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Akira Anami	: DECISION ON REQUEST FOR
Patent Number	: 7614739	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **99** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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JUN 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,614,739	:	
Issued: November 10, 2009	:	
Application No. 11/879,141	:	ON PETITION
Filed: July 16, 2007	:	
Attorney Docket Number: 109659-59742	:	

This is a decision on the petition, filed April 28, 2010, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Although the correct name of the assignee was not included on the Issue Fee Transmittal, PTOL-85B, petitioner states that the assignee is SEIKO EPSON CORPORATION and that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent.

In view thereof, and since Office assignment records reflect that SEIKO EPSON CORPORATION is the assignee of record as the assignment was recorded with the parent application no. 10/642,311 the request complies with the provisions of 37 CFR 3.81(b) and it is therefore appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] *See* Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Suruliappa G. Jeganathan	: DECISION ON REQUEST FOR
Patent Number	: 7662308	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,146	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/879,158	07/16/2007	Naohiro Nomura	07440/LH	3196

1933 7590 12/18/2009
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER
CALEY, MICHAEL H

ART UNIT	PAPER NUMBER
2871	

MAIL DATE	DELIVERY MODE
12/18/2009	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.

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of	:	
NOMURA et al.	:	**DECISION ON REQUEST TO**
Application No. 11/879,158	:	**PARTICIPATE IN PATENT**
Filed: 16 July 2007	:	**PROSECUTION HIGHWAY**
Attorney Docket No. 07440/LH	:	**PROGRAM AND PETITION**
For: LIQUID CRYSTAL DISPLAY	:	**TO MAKE SPECIAL UNDER**
APPARATUS FORMING ASSEMBLY,	:	**37 CFR 1.102(d)**
LIQUID CRYSTAL CELL, AND		
LIQUID CRYSTAL DISPLAY		
APPARATUS, AND		
MANUFACTURING METHOD		
THEREOF		

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 29 October 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, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

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

3. Applicant must

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

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

5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

      Further, if a copy of the documents from 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 comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

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

This application will be forwarded to the examiner for action on the merits commensurate with this decision.

Lee W. Young
TQAS - Technology Center 2800

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Donald E. Scruggs
4464 Walnut Ave.
Chino CA 91710

COPY MAILED

OCT 1 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Scruggs	:	
Application No. 11/879,192	:	DECISION ON PETITION
Filed: July 16, 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 July 16, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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DONALD E. SCRUGGS
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JUN 19 2009

OFFICE OF PETITIONS

In re Application of
Donald E. Scruggs
Application No. 11/879,192
Filed: July 16, 2007
Title of Invention: FLUSHETTE PARTIAL AND FULL TOILET FLUSH DEVICES

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed May 8, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on March 31, 2009, for failure to pay the issue fee in response to the Notice of Allowance mailed December 30, 2008, and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed April 29, 2009.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);

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

This petition lacks items (2) and (3) above.

The fee set for a petition under 37 CFR 1.137(a) is set at $270 and not $250 as has been submitted with the petition. Since no credit card was submitted and no authorizations for debiting a deposit account for any deficiencies have been granted, the required petition fees have not been paid. As the petition fees paid are insufficient, the balance required is $20.

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

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

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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).

employees, the response is not timely received in the Office.[2]

Petitioner asserts financial difficulties and occasional lapses of the necessary mental capacity to follow through on all items as the basis for unavoidable delay.

A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the **entire** period of the delay was such as to excuse the delay.[3] In order to establish unavoidable delay based on financial difficulty, petitioner must provide a showing of the responsible person's financial condition at the time, including income, expenses, assets, credit, and obligations, which made the delay in payment of the fee unavoidable. Petitioner must provide copies of any documents or records that would confirm the financial difficulty.

A showing of "unavoidable" delay based upon a medical or mental health situation, petitioner must provide a showing that petitioner was incapacitated as a result, and that the incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between when the office action was mailed up until a grantable petition has been filed. Such a showing must be supported by a statement from a treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. The statement must also state the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to prosecute the instant patent application.

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

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

[3] Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

The argument and the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a)

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[4] 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).

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). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $810.00 for a small entity and $1620.00 for a large entity and the $250.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(a), if petitioner chooses to file such.

As well, petitioner is advised that if he chooses to file a petition under the unintentional standard, the balance of the petition fee under the unavoidable standard must still be

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[4]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)).

paid or the petition will not be addressed on its merits.

Petitioner should also note, the three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.137(a) or (b) are the delay in:

(1) reply that originally resulted in abandonment and from the abandonment until discovery thereof;

(2) filing an initial petition pursuant to §1.137(b) to revive the application; and

(3) filing a *grantable* petition pursuant to §1.137(b) to revive the application.[5]

In summary, although the circumstances described by petitioner are most unfortunate, they do not constitute a showing of unavoidable delay. The petition will therefore be dismissed.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[5] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (10 October, 1997).

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DONALD E. SCRUGGS
4464 WALNUT AVE.
CHINO CA 91710

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Donald E. Scruggs
Application No. 11/879,192
Filed: July 16, 2007
Title of Invention: FLUSHETTE PARTIAL AND FULL TOILET FLUSH DEVICES

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed July 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 31, 2009, for failure to pay the issue fee in response to the Notice of Allowance mailed December 30, 2008, and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed April 29, 2009. A petition filed May 8, 2009 under 37 CFR 1.137(a) was dismissed in a decision mailed June 19, 2009 because the petition fees paid were insufficient and because the showing of record was inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

Comes now petitioner with the instant petition under the unintentional standard.

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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.

(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)).

37 CFR 1.137(b)(3) however, 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.

Additionally, receipt of the balance of the fees for the petition previously filed under 37 CFR 1.137(a) have been posted. While the petition is titled alternatively under 37 CFR 1.137(a) and 37 CFR 1.137(b), no additional arguments or evidence have been submitted to show that the delay was unavoidable and thus, the petition is only being treated under 37 CFR 1.137(b).

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Ginter, et al. :
Application No. 11/879,202 : ON PETITION
Filed: July 13, 2007 :
Attorney Docket No. 07451.0006-08000 :
For: SYSTEMS AND METHODS FOR SECURE TRANSACTION MANAGEMENT AND ELECTRONIC RIGHTS PROTECTION

This is a decision on the petition under 37 CFR 1.10(c), filed September 7, 2007, requesting that the above-identified application be accorded a filing date of July 12, 2007, rather than the presently accorded filing date of July 13, 2007.

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on July 12, 2007. In support of this contention, petitioners have supplied with the present petition a copy of Express Mail Receipt No. EV55595326US, bearing a "date-in" of "07 12 07" and a postal stamp of "JUL 12 2007". The original patent application transmittal letter found in the application file references Express Mail Receipt Number: EV55595326US.

In view of the above, the petition is **granted**.

The $400.00 petition fee charged in connection with this matter will be refunded to deposit account no. 06-0916.

This application file is being forwarded to the Office of Patent Application Processing for further processing with a filing date of **July 12, 2007**. A corrected filing receipt reflecting the filing date of July 12, 2007 will be mailed in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

Mail Date: 04/20/2010

Applicant	: Joel E. Adair	: DECISION ON REQUEST FOR
Patent Number	: 7591646	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **211** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

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

In re Application of
Justin Bishop
Application No. 11/879,271
Filed: July 16, 2007
Attorney Docket No. 081789-0019

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file replacement drawings on or before October 10, 2007, as required by the Notice to File Corrected Application Papers, mailed August 10, 2007. Accordingly, the date of abandonment of this application is October 11, 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 (Figures 1-4), (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Justin Bishop	:	
Application No. 11/879,272	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. 081789-0020	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file replacement drawings on or before October 10, 2007, as required by the Notice to File Corrected Application Papers, mailed August 10, 2007. Accordingly, the date of abandonment of this application is October 11, 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 (Figures 1-3), (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Justin Bishop	:	
Application No. 11/879,273	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. 081789-0021	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to Incomplete Nonprovisional Application, mailed August 10, 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 11, 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 (Figs 1-8), (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Justin Bishop	:	
Application No. 11/879,273	:	LETTER
Filed: July 16, 2003	:	
Attorney Docket No. 081789-0021	:	

This is in response to the SUBMISSION OF ADDITIONAL INFORMATION RELATING TO PETITION TO REVIVE UNDER 37 CFR 1.137(b) filed June 12, 2009.

A petition to revive under 37 CFR 1.137(b) was filed July 18, 2008. The petition was granted in a decision mailed November 3, 2009. The instant submission was filed in response to telephone conversation between Petitions Examiner Brian Brown and petitioner Michael Messina. This letter acknowledges receipt of copies of the original application drawings (and post card receipt) as submitted with the original application papers filed July 16, 2007 as requested by Petitions Examiner Brown.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

In re Application of	:	
Justin Bishop	:	CORRECTED
Application No. 11/879,273	:	DECISION ON PETITION
Filed: July 18, 2008	:	
Atty Docket No. 081789-0021	:	

This is a **corrected** decision on the petition filed on July 18, 2008, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on July 16, 2007, the application was deposited. On August 10, 2007, a Notice of Incomplete Nonprovisional Application was mailed, stating that the application had not been accorded a filing date because the application was deposited without drawings. A two (2) month period for reply was set.

On July 18, 2008, petitioner filed eight (8) sheets of drawings with the instant petition.

The petition is dismissed as moot because the application was never abandoned. As the application was not entitled to a filing date as of the date of deposit because it was incomplete, it could not become abandoned. As such, the petition under 37 CFR 1.137(b) is unnecessary and will be dismissed as moot.

As the petition is unnecessary, the petition fee will be credited to counsel's deposit account, as authorized in the present petition.

The application is being referred to the Office of Patent Application Processing for further processing with a filing date

of July 18, 2008, the date the drawings were received in the USPTO.

Telephone inquiries concerning this matter may be directed to Carl Friedman at(571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON DC 20005-3096

In re Application of	:	
Justin Bishop	:	
Application No. 11/879,273	:	DECISION ON PETITION
Filed: July 16, 2007	:	
Attorney Docket No. 081789-0021	:	

This is a decision on the "PETITION UNDER 37 CFR 1.182 and/or 1.183 REQUESTING ORIGINAL FILING DATE DUE TO INADEQUATE COUNSEL", filed January 21, 2010, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of July 16, 2007, with 8 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on July 16, 2007. However, on August 10, 2007, the Initial Patent Examination Division mailed Applicants a "Notice of Incomplete NonProvisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

The Office then mailed a "Notice of Termination of Proceedings" on November 21, 2007. Applicant filed a petition to revive under 37 CFR 1.137(b) on July 18, 2008. The petition was granted in a decision mailed on November 3, 2008. On November 5, 2009, the Office mailed a corrected decision, dismissing the petition to revive as moot, as the application was never abandoned, and according the application a filing date of July 18, 2008 (the date drawings were received in the Office, despite the fact that applicant supplied a postcard receipt establishing that drawings were received on July 16, 2007).

In response, Applicant filed the instant petition. Applicant maintains that the application as originally filed included 8 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing 8 pages of drawings as enclosed, bearing a United States Patent and Trademark Office date-stamp of July 16, 2007, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of July 16, 2007, using the application papers received in the Office on that date and the 8 pages of drawings as re-supplied on petition filed July 18, 2008, and for indication in Office records that 8 sheets of drawings were present on filing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Yong Hui Hu et al.	:	
Application No. 11/879,275	:	DECISION ON PETITION
Filed: July 16, 2007	:	PURSUANT TO 37 C.F.R.
Title: DETECT SWITCH HAVING AN	:	§ 1.53
IMPROVED MOVEABLE CONTACT	:	

This is a decision on the petition filed October 11, 2007, under 37 C.F.R. § 1.53, requesting that the above-identified application, including eight sheets of drawings, be accorded a filing date of July 16, 2007 as part of the original disclosure.

The present application was deposited on July 16, 2007. However, on August 6, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Provisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings.

In response, on October 11, 2007, applicants filed the present petition. The petition is further accompanied by a copy of eight sheets of drawings, along with a copy of applicants' postcard receipt acknowledging receipt of "8 sheets of formal drawings" in the United States Patent and Trademark Office (Office) on July 16, 2007. Applicants request that the present application, including each of these eight sheets of drawings, be accorded a filing date of July 16, 2007.

No sheets of drawings have been located among the application papers in the electronic file. However, the evidence is convincing that the application papers deposited on July 16, 2007 included eight sheets of drawings, and each of these sheets was subsequently misplaced in the Office.

Therefore, the application, including eight sheets of drawings, was complete on filing and entitled to a filing date of July 16, 2007 as part of the original disclosure.

Accordingly, the petition under 37 C.F.R. § 1.53 is **GRANTED**.

The notice mailed August 6, 2007 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee of $400 will be refunded via the preparation of a Treasury Check in due course.

The Office of Patent Application Processing (OPAP) will be notified that the application should receive a filing date of July 16, 2007, using the original application papers filed on that date, as well as the eight sheets of drawings submitted on October 11, 2007, and it will be noted in Office records that these eight sheets of drawings were present on filing.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Application of
Yo-Jui Wu
Application No. 11/879,288
Filed: July 17, 2007
Attorney Docket Number: 21107127

ON PETITION

This is a decision on the petition, filed April 5, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned February 17, 2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on November 16, 2009. Accordingly, the Notice of Abandonment was mailed on March 5, 2010.

The issue fee in the amount of $755.00, publication fee in the amount of $300 and the petition fee in the amount of $810 have been charged to deposit account no. 16-2497 per the authorization included with the petition.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Sumito Nishioka	: DECISION ON REQUEST FOR
Patent Number	: 7606134	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,310	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **98** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Roman Steffen	: DECISION ON REQUEST FOR
Patent Number	: 7593172	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,320	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **247** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WALKER, MCKENZIE & WALKER, P.C.
6363 POPLAR AVE., SUITE 434
MEMPHIS, TN 38119-4896

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OFFICE OF PETITIONS

In re Application of	:	
RICHARD H. EDWARDS et al.	:	
Application No. 11/879,328	:	DECISION ON PETITION
Filed: July 16, 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 July 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 declaration and birth certificates of inventors Richard Edwards, Brandon Reed and Robert Green, attesting to their 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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OFFICE OF PETITIONS

In re Application of	:	
SAMUEL G. BREIDNER	:	
Application No. 11/879,349	:	DECISION ON PETITION
Filed: July 17, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **SC-3702-001**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 17, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the declaration of inventor Samuel Breidner, 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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KENNETH BRUNELLE
#1005
850 SOUTH RANCHO DRIVE
LAS VEGAS NV 89106

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OFFICE OF PETITIONS

In re Application of Brunelle et al. Application Number: 11/879382 Deposited: July 16, 2007 Attorney Docket Number: Piper-006	LETTER DISMISSING PETITION

This is a letter in response to the paper entitled "PETITION UNDER 37 CFR 1.53(e)" filed on January 22, 2008.

The petition is **dismissed** for the reason stated below.

The petition cannot be treated on the merits because it is not properly signed. In particular, it is noted that the declaration filed with the original application papers lists Kenneth Brunelle and Danny R. Piper as joint inventors. The petition, however, has been signed only by joint inventor Brunelle.

37 CFR 1.33(b) states:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and**

> **such assignee has taken action in the application in accordance with § 3.71 of this chapter.**
>
> (emphasis added)

Accordingly, a properly signed petition, signed by both joint inventors or by their registered patent practitioner, should be filed.

Any renewed petition should be filed within **TWO (2) MONTHS** of the date of this correspondence, or proceedings on the application will be terminated (37 CFR 1.53(e)).

Receipt of the $400.00 fee on January 22, 2008, is acknowledged. As the fee is a prerequisite for consideration of the petition, the fee will not be refunded.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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#1005
850 SOUTH RANCHO DRIVE
LAS VEGAS NV 89106

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In re Application of	:	
Brunelle et al.	:	
Application Number: 11/879382	:	ON PETITION
Filed: July 16, 2007	:	
Attorney Docket Number: Piper-006	:	

This is a decision on the petition filed on June 19, 2008, which is treated as a petition requesting that the above-identified application, including three (3) sheets of drawings, be accorded a filing date of July 16, 2007.

The petition is **GRANTED**.

On July 16, 2007, the application was filed.

On November 21, 2007, the Office of Patent Application Processing mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that applicant should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

On January 22, 2008, a letter styled as a petition under 37 CFR 1.53(e) was filed. Three (3) sheets of drawings and an itemized postcard were also filed, along with the required petition fee.

On March 5, 2008, the petition was dismissed because it was not signed by all of the inventors or their registered patent practitioner in accordance with 37 CFR 1.33(b).

On June 4, 2008, a Notice of Termination of Proceedings Under 37 CFR 1.53(e) was mailed.

In response, on June 19, 2008, the present petition was filed, accompanied by a copy of the drawing sheets and postcard previously filed on January 22, 2008.

Petitioner argues that three (3) drawing sheets were filed with the other application papers on July 16, 2007, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of July 16, 2007, which includes the above-identified application number. The postcard identifies the application by the attorney docket number and the Express Mail number found on the original application papers and acknowledges receipt of, *inter alia*, 3 sheet of drawings. Petitioners request that the application, including the three (3) sheets of drawings, be accorded a filing date of July 16, 2007.

A review of the record reveals that no three (3) sheets of drawings received on July 16, 2007, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on July 16, 2007, included three (3) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including three (3) sheets of drawings, is entitled to a filing date of July 16, 2007.

In view of the above, the petition is granted. No petition fee is due. The petition fee will be refunded.

The application will be processed with the copy of the three (3) sheets of drawings supplied on January 22, 2008, as a part of the original disclosure.

The application is being referred to the Office of Patent Application Processing for further processing with a filing date of July 16, 2007, using the application papers filed on that date, and the copy of three (3) sheets of drawings supplied with the initial petition, and for an indication in Office records that three (3) sheets of drawings were present on filing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

SUSAN E. MONEY
8385 GOLDEN FLOWERS ST.
LAS VEGAS NV 89139

In re Application of

BRUNELLE, Kenneth et al.
Application No. 11/879,386
Filed: July 16, 2007
Attorney Docket No. **Piper-005**

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 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, I no longer work for this client, does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KENNETH BRUNELLE**
850 SOUTH RANCHO DRIVE #1005
LAS VEGAS, NV 89106

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

SUSAN E. MONEY
8285 GOLDEN FLOWERS ST.
LAS VEGAS NV 89139

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
BRUNELLE, Kenneth et al.	:	
Application No. 11/879,386	:	DECISION ON PETITION
Filed: July 16, 2007	:	TO WITHDRAW
Attorney Docket No. **Piper-005**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 09, 2008.

The request is **APPROVED**.

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

The request was signed by Susan Money, the sole attorney of record. Susan Money has been withdrawn as agent/attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **KENNETH BRUNELLE**
850 S. RANCHO DR. #1005
LAS VEGAS NV 89106

UNITED STATES PATENT AND TRADEMARK OFFICE

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FULWIDER PATTON LLP
200 OCEANGATE, SUITE 1550
LONG BEACH CA 90802

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Alexander R. Bellehumeur et al.	:	
Application No. 11/879,412	:	DECISION ON PETITION
Filed: July 17, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. BELLRH.77216	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes a statement from the first named inventor 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 3652 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

SEP 2 4 2007

In re Application of	:	
Jiten Chatterji et al.	:	DECISION ON
Serial Number: 11/879,423	:	PETITION UNDER
Filed: July 17, 2007	:	M.P.E.P. 708.02(IV)
For: IMPROVING FRICTION REDUCER	:	
PERFORMANCE BY COMPLEXING	:	
MULTIVALENT IONS IN WATER	:	

This is in response to the petition filed July 17, 2007, requesting that the above-identified application be granted Special Status under Section 708.02 (IV) of the MPEP and 37 CFR 1.102(c)

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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CHOATE, HALL & STEWART LLP
Two International Place
Boston, MA 02110

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Stuart L. Schreiber, et al.	:	
Application No. 11/879,466	:	DECISION ON PETITION
Filed: July 17, 2007	:	TO WITHDRAW
Attorney Docket No. 2001180-0093 (HU1917 DIV)	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 9, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorney(s) and/or agent(s) were not appointed by customer number 24280 therefore they cannot be withdrawn with by customer number.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Stuart L. Schreiber**
2 Averv Street, #1E
Boston, MA 02111

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P.O. Box 1450
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DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
P.O. BOX 1294
TARPON SPRINGS, FL 34688-1294

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JUN 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Yasushi Sasaki	:	
Application No. 11/879,471	:	DECISION ON PETITION
Filed: July 17, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2374.31	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/JP2006/301175, filed January 19, 2006, as set forth in the accompanying amendment.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to the examiner of Technology Center Art Unit 4154 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/879,471	07/17/2007	4154	1130	2374.31	11	1

CONFIRMATION NO. 3529

CORRECTED FILING RECEIPT

24040
DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
PO BOX 1294
TARPON SPRINGS, FL 34688-1294

OC000000036514229

Date Mailed: 06/17/2009

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)
Yasushi Sasaki, Saitama, JAPAN;

Assignment For Published Patent Application
TAMURA CORPORATION, Tokyo, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number 24040

Domestic Priority data as claimed by applicant
This application is a CON of PCT/JP2006/301175 01/19/2006

Foreign Applications
JAPAN 2005-012835 01/20/2005

If Required, Foreign Filing License Granted: 08/15/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/879,471**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Magnetic core for transformer

Preliminary Class

336

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/879,505	07/18/2007	Jean-Robert Rapin	116423.01	4595

7590 12/19/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
CARTER, KENDRA D

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
12/19/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 12/22/2008 BPOWELL
07/19/2007 HMARZI1 00000056 11879505
02 FC:1111 -500.00 OP

Adjustment Date: 12/22/2008 BPOWELL
01/24/2007 INTEFSW 00001159 500805 11626390
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

Repln. Ref: 12/22/2008 BPOWELL 0014133800
DA#:150461 Name/Number:11879505
FC: 9204 $500.00 CR

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.
11/879,513	07/18/2007	Tomohiro Asami	131494	4609

25944 7590 11/06/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
PANG, ROGER L

ART UNIT	PAPER NUMBER
3655	

MAIL DATE	DELIVERY MODE
11/06/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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NOV 05 2008

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Tomohiro Asami et al. Application No. 11/879,513 Filed: July 18, 2007 For: CONTROL APPARATUS FOR VEHICLE AND METHOD OF CONTROLLING VEHICLE	: : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 4, 2008, to make the above-identified application special.

The request and petition are **DISMSSED**.

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

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

The request to participate in the PPH pilot program and petition is dismissed because not all claims in the U.S. application sufficiently correspond or have been amended to sufficiently correspond to the allowable/patentable claims(s) in the JPO application. Specifically, the JPO application has a single claim containing "means" clauses. Claim 8 of the U.S. application substantially corresponds to the JPO claim. However, claims 1-7 of the U.S. application do not substantially correspond to the JPO claim.

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 inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 11/05/08

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SUITE 500
MCLEAN VA 22102-3833

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of :
Ichien, et al. :
Application No. 11/879,516 : ON PETITION
Filed: July 18, 2007 :
Attorney Docket No. XA-9957B :
For: SEMICONDUCTOR DATA PROCESSING DEVICE AND DATA PROCESSING SYSTEM

This is a decision on the petition, filed October 9, 2007 and resubmitted on October 17, 2007, requesting withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 8, 2007.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on July 18, 2007. On August 8, 2007 the Office of Initial Patent Examination mailed a Notice informing petitioners that page 11 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 11 be accorded a filing date of July 18, 2007 on the basis that the entire specification, including allegedly missing page 1, was received in the Patent and Trademark Office (PTO) on July 18, 2007.

In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing July 18, 2007 as the date of receipt. The postcard lists that the filing included, *inter alia*, 51 pages of specification. A review of the application file reveals that pages 1-10 and 12-51 are present. Page 11 is missing.

The return postcard constitutes *prima facie* evidence that 51 pages of specification, including missing page 11, were filed on July 18, 2007. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 18, 2007,** using the copy of page 11 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 12-07

Paper No: __

FLETCHER YODER
P.O. BOX 692289
HOUSTON TX 77269-2289

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DEC 28 2007
OFFICE OF PETITIONS

In re Application of :
Xie, et al. :
Application No. 11/879,546 : ON PETITION
Filed: 18 July, 2007 :
Attorney Docket No. PUT060005 (THMT:0005) :

This is a decision on the petition filed on 12 October, 2007, 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."

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

Petitioner's attention is drawn to the concern that the supporting documentation indicates that there was no delivery to the non-signing inventor of the application (description claims, abstract and drawings) as required by law, i.e., statute and regulation and Petitioner does not provide a showing of diligent effort to ascertain that of the address utilized was reasonably believed to be valid/current/last known address of the non-signing inventor(s) (see: the guidance in the Commentary at MPEP §409 et seq.).

BACKGROUND

The record indicates:

- the instant application was filed on 18 July, 2007, without, *inter alia*, a fully executed oath/declaration;
- on 8 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 October, 2007, Petitioner Barry D. Blount (Reg. No. 35,069), filed, *inter alia*, an oath/declaration signed by co-inventors Xie and Lyst on behalf of themselves and non-signing co-inventor Jingbo Cai (Mr. Cai), and the petition, and while there is an indication of transmittal of the entire application (description, claims, abstract and drawings) as required by law to the non-signing inventor, in light of the non-delivery of the package, there is no showing by Petitioner of a diligent determination that the address used for that purpose was valid/reasonably believed to be current/last known addresses.

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]

---

[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.

ANALYSIS

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

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

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

> **§1.63 Oath or declaration.**
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> > (1)Identify the application to which it is directed;
> >
> > (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
> >
> > (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. (See: the commentary at MPEP §409.03(d).)

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

signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

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

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

CONCLUSION

Therefore, the instant petition hereby is **dismissed**, and Petitioner is requested to review the requirements at MPEP §409, et seq., and move stepwise through their satisfaction in any future petition herein under 37 C.F.R. §1.47.

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

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

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

---

[3] See: MPEP 409.03(b).

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

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

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

FLETCHER YODER
P.O. BOX 692289
HOUSTON TX 77269-2289

In re Application of	:	
Xie, et al.	:	
Application No. 11/879,546	:	ON PETITION
Filed: 18 July, 2007	:	
Attorney Docket No. PUT060005 (THMT:0005)	:	

This is a decision on the petition filed on 29 February, 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**.

BACKGROUND

The record indicates:

- the instant application was filed on 18 July, 2007, without, *inter alia*, a fully executed oath/declaration;
- on 8 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 October, 2007, Petitioner Barry D. Blount (Reg. No. 35,069), filed, *inter alia*, an oath/declaration signed by co-inventors Xie and Lyst on behalf of themselves and non-

signing co-inventor Jingbo Cai (Mr. Cai), and the petition, and while there is an indication of transmittal of the entire application (description, claims, abstract and drawings) as required by law to the non-signing inventor, in light of the non-delivery of the package, there is no showing by Petitioner of a diligent determination that the address used for that purpose was valid/reasonably believed to be current/last known addresses—thus the petition was dismissed on 28 December, 2007;

- with the instant petition, Petitioner seeks to overcome the earlier deficiency(es.) with an averment of signing/joinder by the previously non-signing inventor supported by a copy of the signed oath/declaration .

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 inventor, 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 OIPE for further processing as necessary before being returned to substantive examination in due course.

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

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

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

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

§1.2 Business to be transacted in writing.

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

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OFFICE OF PETITIONS

INTERNATIONAL IP LAW GROUP
P.O. BOX 691927
HOUSTON TX 77269-1927

In re Application of	:	
XIE, Kevin et al.	:	
Application No. 11/879,546	:	DECISION ON PETITION
Filed: July 18, 2007	:	TO WITHDRAW
Attorney Docket No. **PUT060005 (THMT:0005/BLT)**	:	FROM RECORD
	:	

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 16, 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 Barry D. Blount on behalf of all attorneys of record who are associated with customer No. 69590. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KEVIN XIE**
D803 XINJIEKOU BUILDING NANYOUDADAO ROAD
NANSHAN DISTRICT, SHENZHEN CITY
GUANGDONG PROVINCE, P.R., 518067
CHINA

cc: **FLETCHER YODER P.C.**
7915 FM 1960 RD. WEST
SUITE 330
HOUSTON, TX 77070

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

INTERNATIONAL IP LAW GROUP
P.O. BOX 691927
HOUSTON, TX 77269-1927

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In re Application of	:	
XIE, Kevin et al.	:	
Application No. 11/879,546	:	DECISION ON PETITION
Filed: July 18, 2007	:	TO WITHDRAW
Attorney Docket No. **PUT060005**	:	FROM RECORD
THMT:0005/FLE/P	:	

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

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

A review of the file record indicates that the power of attorney to International IP Law Group has been revoked by the applicant of the patent application on July 24, 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: **FLETCHER YODER P.C.**
7915 FM 1960 RD. WEST
SUITE 330
HOUSTON TX 77070

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

Brinks Hofer Gilson & Lione/Seiko Instruments Inc.
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

Applicant	: Rintaro Nakatani	: DECISION ON REQUEST FOR
Patent Number	: 7641384	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **190** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

In re Application of	:	
Mor Naaman et al	:	
Application No. 11/879,599	:	DECISION ON PETITION
Filed: July 17, 2007	:	TO WITHDRAW
Attorney Docket No. 324212018100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 24, 2010.

The request is **APPROVED**.

A review of the file record indicates that Robert A. Saltzberg: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Robert A. Saltzberg has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert A. Saltzberg
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN F. BRYAN
8291 LAKESIDE DRIVE
ENGLEWOOD FL 34224

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OFFICE OF PETITIONS

In re Application of :
Bormann :
Application No. 11/879,615 :
Filed: July 18, 2007 :
Attorney Docket No. N/A :
For: LOW VOLTAGE LED DRIVE FROM 120VAC LINE

ON PETITION

This is a decision on the petition, filed August 16, 2007, requesting withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application, mailed August 9, 2007. The petition will be treated under 37 CFR 1.53(e) and 1.182.

The petition under 37 CFR 1.53(e) is **dismissed**.

The petition under 37 CFR 1.182 is **dismissed**.

The application was filed on July 18, 2007. On August 9, 2007, the Office of Initial Patent Examination mailed a " Notice Of Omitted Item(s) in a Nonprovisional Application" informing petitioner that Figures 1-3 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner argues that the drawing figures were filed on July 18, 2007 and later misplaced in the Office. Petitioner has provided a copy of his date stamped postcard receipt that shows the Office received a "utility application" on July 18, 2007. Petitioner is informed that his postcard receipt is not sufficiently detailed to prove that Figures 1-3 were filed on July 18, 2007. Per MPEP 503: It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).

The petition to accord a July 18, 2007 filing date to the application is dismissed. Petitioner has not established that Figures 1-3 were present in the Office on July 18, 2007.

Petitioner next requests the date of receipt of Figures 1-3 as the filing date of this application. However, the petition cannot be granted because the supplemental declaration filed with the present petition does not refer to the later filed drawings. The declaration refers to the application that was filed on July 18, 2007, but does not refer to the drawings filed on August 16, 2007. Please file another supplemental declaration that addresses this matter.

The application is being returned to the Office of Patent Application Processing to await receipt of another supplemental declaration that refers to the later filed drawings. When the new declaration is filed, the application will be processed with an August 16, 2007 filing date. Figures 1-3, supplied with the present petition, are **not** to be processed at this time.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Torsten Schulz	: DECISION ON REQUEST FOR
Patent Number	: 7581531	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/879,618	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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www.uspto.gov

WEAVER AUSTIN VILLENEUVE & SAMPSON
YAHOO!
P.O. Box 70250
Oakland, CA 94612-0250

In re Application of Bernd Scheibe Application No. 11/879,626 Filed: July 17, 2007 For: TECHNIQUES FOR REPRESENTING LOCATION INFORMATION	: : : :	PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

This is a decision on applicant's petition under 37 CFR 1.184(A)(2) filed July 17, 2007 to accept color drawings/photographs.

For the acceptance of color drawings in accordance with 37 CFR 1.184(A)(2), a petition is required which fulfills the following requirements:

(i) The appropriate fee set forth in 1.17(h),
(ii) three (3) sets of color drawings/photographs, and
(iii) amending the specification 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 photography. Copies of this patent with color photographs will be provided by the Patent and Trademark Office upon request and payment of necessary fee."

Having met the requirements of 37 CFR 1.184(A)(2), the petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at the number listed below.

Jack Keith
Supervisory Patent Examiner
Art Unit 3663
(571) 272-6878

jwk: 2/26/09

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OFFICE OF PETITIONS

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH, CA 92660

In re Application of

John H. ALBERS
Application No. 11/879,627
Filed: July 17, 2007
Attorney Docket No. ALBERS-J-01US

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 17, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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In re Application of	:	
Campbell, et al.	:	
Application No. 11/879,642	:	DECISION
Filed: 18 July, 2007	:	
Attorney Docket No. KCX-1536-CON(64042465US11	:	

This is a decision on the petition filed on 12 May, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

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

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

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

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 24 September, 2007, with reply due absent extension of time on or before 24 December, 2007.

The application went abandoned by operation of law after midnight 24 December, 2007.

The Office mailed the Notice of Abandonment on 3 April, 2008.

On 12 May, 2008, Petitioner filed the instant petition averring, *inter alia*, that a reply in the form of an amendment had been timely filed on 21 December, 2007, and so evidenced with what are averred to be true copies of the reply (over a certificate of mailing), and the date-stamped ("DEC 21 2007") receipt card.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

[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).

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.[2] (*See*, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **granted** and the 3 April, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 1794 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

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

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

---

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CASCADIA INTELLECTUAL PROPERTY
500 Union Street
Suite 1005
Seattle, WA 98101

COPY MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Gust H. Bardy	:	
Application No. 11/879,654	:	DECISION ON PETITION
Filed: July 17, 2007	:	TO WITHDRAW
Attorney Docket No. 115.0095USD2/03-419APM-DI	:	FROM RECORD

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 26, 2009.

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

A review of the file record indicates that the power of attorney to Cascadia Intellectual Property has been revoked by the assignee of the patent application on February 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
Plaza VII-Suite 3000
45 South Seventh Street
Minneapolis, MN 55402-1630

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/879,683	07/18/2007	Giorgio Agostini	DN2006180	4617

27280 7590 10/27/2009
THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

EXAMINER
THROWER, LARRY W

ART UNIT	PAPER NUMBER
1791	

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.

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

wk

Mailed: 10/27/09

In re application of	:	
Agostini et al.	:	DECISION ON
Serial No. 11/879,683	:	PETITION
Filed: July 18, 2007	:	
For: Self-Releasing Curing Bladder	:	

This is a response to a PETITION UNDER RULE 37 C.F.R. 1.181 (no fee) filed May 11, 2009 requesting that the Examiner supply a full English translation of the cited Japanese reference Hashimoto, JP 05-031724.

A review of the record indicates that the reference has been cited in rejecting claims with only an English translation of the abstract provided by the Examiner. The Examiner in the Office Action dated July 22, 2009 states that an oral translation was relied upon for the rejection and that no full English translation is available.

When an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection.

DECISION

The Petition is **GRANTED**.

The Examiner is directed to provide Applicant a full English translation of the cited Japanese reference Hashimoto, JP 05-031724.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

John D. DeLong
THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON OH 44316-0001

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OCT 2 - 2007

Technology Center 2100

MARK D MILLER
KIMBLE, MACMICHAEL & UPTON
5260 NORTH PALM AVENUE
SUITE 221
FRESNO CA 93704

In re Application of: George Alexanain Serial No.: 11/879,700 Filed: July 17, 2007 Docket: 6944.15 Title: IRRIGATION WATER CONSERVATION WITH TEMPERATURE BUDGETING AND TIME OF USE TECHNOLOGY	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 17, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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 it is a utility application filed under 37 CFR 1.111(a) and was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of the Notice to File Missing Parts on August 10, 2007 is evidence that the application was not complete and in condition for examination at the time of filing. Further, the petition and the required petition fee were not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web, nor is there a statement asserting that EFS and EFS-web were not available during the normal business hours.

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, subsections V or VI 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

NHANCE, LLC
175 REMSEN STREET
SUITE 602
BROOKLYN NY 11201

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of
Silas
Application No. 11/879,706
Filed: July 19, 2007
Attorney Docket No. EMUNOTM BAR, BY NUTRA-SHIELDTM

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned October 8, 2007 for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 7, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed August 29, 2008.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

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

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

Michael T. Sanderson
King & Schickli, PLLC
247 North Broadway
Lexington KY 40507

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of	:	DECISION REFUSING STATUS
Thomas	:	UNDER 37 CFR 1.47(b)
Application No. 11/879,714	:	
Filed: July 18, 2007	:	
Attorney Docket No. 1363-037	:	

This is in response to the "Petition Under 37 CFR 1.47(b), filed July 18, 2007.

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.

No one has signed the declaration. The declaration should be signed by an officer of Novell, Inc. (President, Vice-President, Secretary, Treasurer of Chief Executive Officer). A corporation may authorize any person to sign the application on its behalf. However, if the declaration is not signed by an attorney or officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. MPEP 409.03(b) The signature block of the non-signing inventor should be left blank. An addendum to the existing declaration, signed by a person with authority to bind Novell, Inc., should be filed.

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

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

Telephone inquiries should be directed to the undersigned at (571)272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael T. Sanderson
King & Schickli, PLLC
247 North Broadway
Lexington KY 40507

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas	:	DECISION ACCORDING STATUS
Application No. 11/879,714	:	UNDER 37 CFR 1.47(b)
Filed: July 18, 2007	:	
Attorney Docket No. 1363-037	:	

This is a decision on the petition filed, September 27, 2007, requesting reconsideration of a decision mailed August 13, 2007, which refused to accord 37 CFR 1.47(b) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Kasman E. Thomas, 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(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 for pre-examination processing.

Telephone inquiries 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
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KASMAN E. THOMAS
18 FAIRFAX AVENUE
WILTON CT 06897

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas	:	
Application No. 11/879,714	:	LETTER
Filed: July 18, 2007	:	
Attorney Docket No. 1363-037	:	

Dear Mr. Thomas:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Attorney of Record: Michael T. Sanderson
King & Schickli, PLLC
247 North Broadway
Lexington KY 40507

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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Michael T. Sanderson
King & Schickli, PLLC
247 North Broadway
Lexington KY 40507

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of
Thomas
Application No. 11/879,714
Filed: July 18, 2007
Attorney Docket No. 1363-037

: DECISION VACATING DECISION OF OCTOBER 29, 2007 AND REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision vacates the decision of October 29, 2007.

This is a decision on the petition filed, September 27, 2007, requesting reconsideration of a decision mailed August 13, 2007, which refused to accord 37 CFR 1.47(b) status to 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. 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.**

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.

This petition lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The September 27, 2007 Addendum to Inventor's Declaration

signed by Ryan Richards in his capacity of Vice President and Deputy General Counsel of Novell, Inc. did not properly execute the declaration filed on July 18, 2007. The Addendum was not physically attached to the July 18, 2007 declaration and there is no explicit language in the declaration that states Ryan Richards was executing the declaration on behalf of the non-signer.

No one has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing Kasman E. Thomas' information, signed by the Rule 1.47(b) applicant on behalf of Mr. Thomas is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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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Michael T. Sanderson
King & Schickli, PLLC
247 North Broadway
Lexington KY 40507

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SEP 15 2008

In re Application of
Thomas
Application No. 11/879,714
Filed: July 18, 2007
Attorney Docket No. 1363-037

: DECISION ACCORDING
: STATUS UNDER 37 CFR 1.47(b)

This is a decision on the petition, filed July 21, 2008 (certificate of mailing date July 17, 2008), requesting reconsideration of a decision mailed July 7, 2008, which refused to accord 37 CFR 1.47(b) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Kasman E. Thomas, 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(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 Technology Center AU 2132 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KASMAN E. THOMAS
18 FAIRFAX AVENUE
WILTON CT 06897

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SEP 15 2008

In re Application of	:	
Thomas	:	
Application No. 11/879,714	:	LETTER
Filed: July 18, 2007	:	
Attorney Docket No. 1363-037	:	

Dear Mr. Thomas:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Attorney of Record: Michael T. Sanderson
King & Schickli, PLLC
247 North Broadway
Lexington KY 40507

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAYMOND J. WERNER
2056 NW ALOCLEK DRIVE, SUITE 314
HILLSBORO OR 97124

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NOV 24 2008

In re Application of	:	
Johnson et al.	:	
Application No. 11/879,736	:	ON PETITION
Filed: July 17, 2007	:	
Attorney Docket No. Octavian. P019	:	

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

The petition is **GRANTED**.

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

The instant petition includes a Declaration by the applicant that he is 65 years of age. 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 2833 for action on the merits commensurate with this decision.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBER KALER GRIMES & SHRIVER
120 EAST BALTIMORE STREET
BALTIMORE, MD 21202-1643

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NOV 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Douglas H. Trotter et al	:	
Application No. 11/879,750	:	ON PETITION
Filed: July 18, 2007	:	
Attorney Docket No. 026938.076699	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 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 8, 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 9, 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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1 4 APR 2008

AMGEN INC.
Dept. 4300, M/S 28-2-C
One Amgen Center Drive
Thousand Oaks, California 91320-1799

In re Application of	: DECISION ON
Chen et al	:
Application No.: 11/879,831	:
Filing Date: 18 July 2007	: PETITION UNDER
Attorney's Docket No.: A-1140-US-NP	:
For: DI-AMINO-SUBSITUTED HETEROCYCIC	:
COMPOUNDS AND METHODS OF USE	: 37 CFR 1.10 (c)

This decision is in response to the "Request For Corrected Filing date," filed on 28 February 2008, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of 17 July 2007 be changed to 18 July 2007 for the above identified patent application, and to correct the filing receipt to 18 July 2007. No fee is required for this petition.

BACKGROUND

This petition is to correct the international filing date of the above application that was purported to have been filed on 18 July 2007.

On 28 February 2008, applicant filed the present petition stating that the international filing date of this application is 18 July 2007 because it was in fact deposited with the USPS on 18 July 2007 as evidenced by the USPS circular stamped on the "Express Mail" label indicating a date of 18 July 2007 and the USPS Track & Confirm.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

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

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition was filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EL732555283US was placed, *inter alia*, on the Patent Transmittal Letter. CFR 1.10(c)(2). Although the copy of the customer receipt of "Express Mail" Label No. EL732555283US filed with the present petition, it does not clearly identify the day of deposit in the "Date In" box (looks like 7/7/07); however, it is stamped by the USPS with a date of July 18, 2007. Also, applicants have submitted a copy of the USPS of the "Track & Confirm" sheet, which shows that the above application was submitted on July 18, 2007, 5:37 pm at NEWBURY PARK, CA 91320. 37 CFR 1.10(c)(3).

Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(c) is **GRANTED**.

The decision is being forwarded to Initial Processing Division (IPD) for **correction of the filing date to July 18, 2007** and **issuance of a corrected filing receipt**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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APR 09 2010
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of	:	
AMAGAI, HITOSHI	:	DECISION ON REQUEST TO
Application No. 11/879,837	:	PARTICIPATE IN PATENT
Filed: July 19, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 07412/LH	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed March 09, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

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

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 06/21/2010

Applicant	: Christoph Weber	: DECISION ON REQUEST FOR
Patent Number	: 7666070	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/879,844	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **29** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DEC 15 2008

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater IA 50244

In re Application of:
McBroom et al.
Serial No.: 11/879,850
Filed: July 19, 2007
Attorney Docket No.: **S06-02JR423005**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed December 12, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on June 12, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Dana S. Rewoldt, Esq.
2369 330th St
Box 500
Slater IA 50244

In re Application of:
McBroom et al.
Serial No.: 11/879,851
Filed: July 19, 2007
Attorney Docket No.: **S06-02JR423003**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed December 12, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on June 12, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater IA 50244

In re Application of:
McBroom et al.
Serial No.: 11/879,852
Filed: July 19, 2007
Attorney Docket No.: **S06-02JR409114**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed December 12, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on June 12, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET, SUITE 309
NEW YORK, NY 10038

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JAN 14 2009

In re Application of	:	
Albert NAZARIAN	:	
Application No. 11/879,861	:	DECISION ON PETITION
Filed: July 18, 2007	:	TO WITHDRAW
Attorney Docket No. 17205 B	:	FROM RECORD
	:	

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 28, 2008.

The request is **APPROVED**.

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

The request was signed by Charles E. Baxley on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALBERT NAZARIAN
23 TRAFALGAR DRIVE
LIVINGSTON, NJ 07638

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DENNIS M. CONNOLLY
999 LEHIGH STATION ROAD
HENRIETTA NY 14467

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OFFICE OF PETITIONS

In re Application of	:	
Herb Martin	:	
Application No. 11/879,869	:	DECISION ON PETITION
Filed: July 19, 2007	:	
Attorney Docket No. 4/101	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed August 11, 2008, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3727 for appropriate action by the Examiner in the normal course of business on the reply received August 28, 2009

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JASON R. WOMER
HISCOCK & BARCLAY, LLP
2000 HSBC PLZ.,
100 CHESTNUT ST.
ROCHESTER,M NY 14604-2404

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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APR 29 2009
OFFICE OF PETITIONS

In re Application of	:	
Dennis Michael Carney, et al.	:	
Application No. 11/879,892	:	DECISION ON PETITION
Filed: August 29, 2006	:	
Attorney Docket No. 15962.0001USI1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 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, July 25, 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 October 26, 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, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

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The BOC Group, Inc.
575 MOUNTAIN AVENUE
MURRAY HILL NJ 07974-2082

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JAN 25 2010

In re Application of	:	
Lee et al.	:	
Application No. 11/879,911	:	DECISION ON PETITION
Filed: July 19, 2007	:	
Attorney Docket No. P07112-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 6, 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 7, 2009. A Notice of Abandonment was mailed November 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3752 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/879,915	07/19/2007	Roger L. McBroom	S06-01JR119448	5767

7590 03/06/2009

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater, IA 50244

EXAMINER
KALLIS, RUSSELL

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

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

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

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MAR 0 6 2009

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater IA 50244

In re Application of:
McBroom et al.
Serial No.: 11/879,915
Filed: July 19, 2007
Attorney Docket No.: **S06-01JR119448**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed February 26, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on September 25, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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David M. Ostfeld
Adams and Reese, LLP
4400 One Houston Center
1221 McKinney Street
Houston TX 77010

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Wang, et al.	:	DECISION REFUSING STATUS
Application No. 11/879,926	:	UNDER 37 CFR 1.47(b)
Filed: July 19, 2007	:	
Attorney Docket No. 13942-1	:	

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

The petition is DISMISSED.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 (1), (2), and (6) set forth above.

As to item (1), 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 inventors cannot be reached or located for presentation of the application papers.

Petitioners assert that the inventors are no longer employed by assignee and cannot be found or reached after diligent effort.

The declaration of Yvonne R. Ferrera states that on two occasions, a letter, declaration, and power of attorney were forwarded to each of the inventors. One of the letters mailed to inventor Bin Wang was returned to sender. No communication was apparently received from either inventor.

To the extent that petitioners allege the non-signing inventors have refused to execute the oath or declaration, petitioners are reminded that 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 each non-signing inventor at each 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 inventors were 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 inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive 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.

To the extent that petitioners allege the non-signing inventors cannot be reached or located, petitioners are reminded that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventors for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-

signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioners should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration presented is unacceptable as it fails to satisfy 37 CFR 1.63(a).

Any renewed petition should be accompanied by a proper oath or declaration wherein the name, address, residence, and citizenship of the inventor is set forth. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. *See* MPEP 409.03(b).

As to item (3), petitioners' deposit account has been charged the required petition fee of $200.00 as authorized.

As to item (4), the last known addresses of the non-signing inventors have not been provided.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing 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 non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the

mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP §§ 409.03(e) and 605.03.

As to item (6), petitioners have failed to present a showing that action under 37 CFR 1.47 is required to preserve the rights of the parties or to prevent irreparable damages. Irreparable damage may be established by a showing in the form of a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage. *See*, MPEP 409.03(g) for further guidance.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulaney 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

David M. Ostfeld
Adams and Reese, LLP
4400 One Houston Center
1221 McKinney Street
Houston TX 77010

COPY MAILED

JUN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Wang, et al.	:	DECISION REFUSING STATUS
Application No. 11/879,926	:	UNDER 37 CFR 1.47(a)
Filed: July 19, 2007	:	
Attorney Docket No. 13942-1	:	

This is in response to the petition renewed under 37 CFR 1.47(a), filed May 23, 2008.

The petition is DISMISSED.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

As to item (1), 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 inventors cannot be reached or located for presentation of the application papers.

The declaration of Cynthia L. Baldemor indicates that documents sent to the non-signing inventor have been returned by the postal service as undeliverable, with an indication of "no such block." Declarant states unsuccessful internet searches have been made in effort to locate the non-signing inventor. The petition contains no supporting documentation of efforts made to locate the non-signing inventor.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventors for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioners should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), should further research reveal a more accurate address for the non-signing inventor, a supplemental oath or declaration or application data sheet should be submitted.

As to item (4), the last known address of the non-signing inventor remains in question. Should further research reveal a more accurate address for the non-signing inventor, a statement of the more accurate address should be submitted upon renewed petition.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing 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 non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each

applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP §§ 409.03(e) and 605.03.

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

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

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney 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

David M. Ostfeld
Adams and Reese, LLP
4400 One Houston Center
1221 McKinney Street
Houston TX 77010

COPY MAILED

SEP 21 2009

OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 11/879,926
Filed: July 19, 2007
Atty. Dkt. No.: 13942-1
For: METHOD OF SUBSALT VELOCITY ANALYSIS BY COMBINING WAVE EQUATION BASED REDATUMING AND KIRCHHOFF BASED MIGRATION VELOCITY ANALYSIS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed October 16, 2008 and supplemented October 16, 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).

Petitioners indicate that the previously non-signing inventor, Mr. Audebert, is now available to execute a declaration for the instant application for patent and have provided a declaration. The declaration, however, is not acceptable for the reasons that follow.

The declaration fails to satisfy 37 CFR 1.56. Effective June 1, 2008, the Office will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. All oaths or declarations filed on or after June 1, 2008, are required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3), i.e., must 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." *See*, 1327 O.G. 45.

Further, the declaration is not acceptable due to non-initialed and/or non-dated alterations have been made to the oath or declaration. *See*, 37 CFR 1.52(c)

Any request for reconsideration of this matter must include a newly executed oath or declaration in accordance with 37 CFR 1.63, 1.64, 1.56, and 1.52(c).

Please note that in accordance with MPEP 605.04(a), the application filed must be the application executed by the applicant and it is improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, ***including the oath or declaration***, after execution of the oath or declaration by the applicant. Further, 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.

Therefore, the Office requires a new oath or declaration as to Inventor Audebert as it is evident by virtue of the non-initialed changes and failure to comply with 37 CFR 1.63(b)(3) that the declaration previously submitted fails to comply with the aforementioned requirements as well as 37 CFR §§ 1.52(c), 1.63 and 1.64.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By 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/

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

Paper No.

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

COPY MAILED

JUN 0 9 2008

In re Application of	:	
Michael Spurlock, Chun Wu	:	DECISION REFUSING STATUS
Chien Chen and Richmond Italia	:	UNDER 37 CFR 1.47(a)
Application No. 11/879,961	:	
Filed: July 19, 2007	:	
Attorney Docket No. PROC-100US	:	

This is a decision on the "PETITION BY JOINT INVENTORS FILING ON BEHALF OF OTHER JOINT INVENTOR WHO REFUSES TO JOIN IN APPLICATION OR CANNOT BE REACHED PURSUANT TO 37 C.F.R. § 1.47(a)" filed March 13, 2008.

The petition is **DISMISSED**.

Rule 47 applicants 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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath(s) or declaration(s) executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 19, 2007, with an unexecuted declaration. Accordingly, on August 13, 2007, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and the surcharge for late filing under § 1.16(e). This Notice set a two-month time limit for response with extensions of time obtainable under 37 CFR 1.136(a).

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee and the late surcharge. This response was made timely by a petition and fee for extension of time for response within the fifth month. The petition includes a declaration executed by inventors Italia, Spurlock and Wu on behalf of themselves and on behalf of non-signing inventor Chen. Rule 47 applicants assert that status under § 1.47(a) is proper because inventor Chen refuses to sign the declaration.

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

Moreover, the declaration is not acceptable as it includes non-dated and non-initialled changes by inventor Wu. A new declaration by the available inventors is required.

Rule 47 applicants have not submitted adequate proof that the non-signing inventor has refused to join in the application. 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.

Moreover, proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The

document may be redacted to remove material not related to the inventor's reasons for refusal. See MPEP 409.03(d).

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

In this instance, applicants provide a copy of an email indicating the inventor's refusal. However, the petition includes no proof of the presentation of the application papers to the inventor. Nor does the written refusal of the inventor show that the inventor has received the papers or that he refuses to accept the papers or that he is advising applicants that the papers should not be sent. Accordingly, it is concluded that the proof submitted is not adequate to show that inventor Chen has refused to join in the application after having been presented with the application papers (or after applicants having made a bona fide attempt to present the papers).

It is noted that a declaration in compliance with §1.63 executed by inventor Chen (with a declaration executed by the other joint inventors without non-dated and non-initialled changes) is a proper response to this decision. However, any such declaration should not have any non-dated and non-initialled changes.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:
Michael Spurlock, Chun Wu	: DECISION ACCORDING STATUS
Chien Chen and Richmond Italia	: UNDER 37 CFR 1.47(a)
Application No. 11/879,961	:
Filed: July 19, 2007	:
Attorney Docket No. PROC-100US	:

This is in response to the REPLY TO DECISION REFUSING STATUS UNDER 37 C.F.R. 1.47(a) AND REVISED PETITION UNDER 37 C.F.R. §1.47(a) FOR JOINT INVENTORS REFUSING TO SIGN APPLICATION filed October 14, 2008.

The petition is **GRANTED**.

The above-identified application was filed on July 19, 2007, with an unexecuted declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application," mailed August 13, 2007, on March 13, 2008, applicants filed the initial petition under 37 CFR 1.47(a) with a declaration executed by inventors Italia, Spurlock and Wu on behalf of themselves and on behalf of non-signing inventor Chen. By decision mailed June 9, 2008, the petition was dismissed on the basis that applicants had not submit adequate proof of inventor Chen's refusal to sign the declaration after having been presented with the application papers. In addition, the declaration for patent submitted was unacceptable as it included non-dated and non-initialled changes by inventor Wu.

On instant renewed petition, applicants submitted a declaration for patent executed by inventors Italia and Wu on behalf of themselves and on behalf of non-signing inventors Spurlock and

Chen. Applicants state that inventor Spurlock now refuses to sign the declaration. The declaration filed October 14, 2008 has been reviewed and found in compliance. It does not include any non-dated and non-initialled changes. Further, by declaration of pertinent facts of attorney Weed, applicants have submitted adequate proof that the application papers have been presented to inventors Spurlock and Wu, and that both inventors have refused to join in the application. It is noted that the proof makes clear that the presentations by email were successfully transmitted and that the inventors were able to open and view the messages. The petition includes a statement of the last known addresses of the non-signing inventors. The petition fee was paid on initial petition filed March 13, 2008.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael Steven Spurlock
1970 Sandy Creek Drive
Seemes, AL 36575

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Spurlock, Chun Wu	:	
Chien Chen and Richmond Italia	:	LETTER
Application No. 11/879,961	:	
Filed: July 19, 2007	:	
Attorney Docket No. PROC-100US	:	

Dear Mr. Spurlock:

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

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Chien Ming Chen
No. 97, Binnan St Taliao Hsiang
Kaohsiung Hsien 83143
Taiwan
R.O.C.

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Spurlock, Chun Wu	:	
Chien Chen and Richmond Italia	:	LETTER
Application No. 11/879,961	:	
Filed: July 19, 2007	:	
Attorney Docket No. PROC-100US	:	

Dear Mr. Chen:

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

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482

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.
11/879,971	07/19/2007	Takahiro Shimura	8375-000068	5378

27572 7590 11/19/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
ZIMMERMAN, BRIAN A

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
11/19/2009	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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of	:	
SHIMURA, TAKAHIRO	:	DECISION ON REQUEST TO
Application No. 11/879,971	:	PARTICIPATE IN PATENT
Filed: July 20, 2009	:	PROSECUTION HIGHWAY
Attorney Docket No. 8375-000068	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed September 14, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

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

Petitioner has not complied with item 3 above.

Regarding item 3, all the claims in the US application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the JPO application. In

this instant US application, the amended claims do not sufficiently correspond to the claims of JPO application 2006-208834. For example, claim 1of US application recites "having a reader function, which conducts a backscatter radio communication with an RFID tag, utilizing absorption and reflection of radio wave, ...transmission section configured to transmit a command...the transmission section also transmitting a continuous radio wave with no modulation to the RFID tag to enable the RFID tag to carry out the backscatter radio communication...a reception section ...a preamble identifying data storage section configured to store predetermined lower bits of preamble data...", while claim 1 of JPO application lacks at least these recitations.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

Q.24

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

DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

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APR 16 2008

OFFICE OF PETITIONS

In re Application of:	:	
Bleacher et al.	:	
Application No. 11/879985	:	DECISION GRANTING
Filing or 371(c) Date: 07/19/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
AIRCRAFT VIDEO DISPLAY UNIT	:	
AND SYSTEM	:	

This Decision is in response to the Petition Under 37 CFR § 1.47(a), filed February 13, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The delay in treating this petition is regretted.

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, Mark Thompson, 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 Publishing Division for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. MARK THOMPSON
1 CALLE De Los GRABADOS
RANCHO SANTA MARGARITA, CA 92688

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APR 16 2008

OFFICE OF PETITIONS

In re Application of:	:	
Bleacher et al.	:	
Application No. 11/879985	:	LETTER
Filing or 371(c) Date: 07/19/2007	:	
Title of Invention:	:	
AIRCRAFT VIDEO DISPLAY UNIT	:	
AND SYSTEM	:	

Dear Mr. Thompson:

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: DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

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 CARLSON
6202 LYNN LANE
LAGO VISTA TX 78645

MAILED

FEB 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Krottendorfer et al.	:	
Application No. 11/880,016	:	DECISION ON PETITION
Filed: July 19, 2007	:	
Attorney Docket No. ODM-007	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely and proper manner to the Notice to File Corrected Application Papers (Notice) mailed August 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 October 10, 2007. A Notice of Abandonment was mailed April 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Replacement drawings; (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
Liana Walsh
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frank Boring Fitzgerald
6 Fitzgerald Lane Rockvale
Joliet MT 59041-9304

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Frank Boring Fitzgerald	:	
Application No. 11/880,031	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No.	:	

This is in response to the communication, filed May 20, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On October 6, 2008, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on January 7, 2009, for failure to submit a timely response to the non-final Office action. On May 13, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to the fact that he filed a timely response on December 20, 2008.

The only evidence petitioner provides to support his allegation that a response was timely filed is a statement that he saved a copy of the response on his computer on December 19, 2008. Unfortunately, the act of saving a paper in petitioner's computer in no way indicates or confirms that he actually mailed the paper, all it proves is that he had generated a response and saved it on his computer. Likewise the copy of the mailing envelope merely proves petitioner had prepared an envelope to mail the response. None of this is proof that petitioner mailed the response.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64 and Privacy Act Statement.

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/880,034	07/19/2007	Roger L. McBroom	S06-SJ144056	5377

7590 10/29/2008

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St, Box 500
Slater, IA 50244

EXAMINER
BAUM, STUART F

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
10/29/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St, Box 500
Slater IA 50244

OCT 2 9 2008

In re Application of :
McBroom et al.
Serial No.: 11/880,034
Filed: July 19, 2007
Attorney Docket No.: **S06-SJ144056**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed October 16, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on June 12, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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.
11/880,035	07/19/2007	Kevin Threlkeld	S06-WW104024	5379

7590 10/29/2008

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St, Box 500
Slater, IA 50244

EXAMINER
BAUM, STUART F

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
10/29/2008	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
P.O. Box 1450
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www.uspto.gov

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St, Box 500
Slater IA 50244

OCT 2 9 2008

In re Application of :
Threlkeld et al.
Serial No.: 11/880,035
Filed: July 19, 2007
Attorney Docket No.: **S06-WW104024**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed October 16, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on June 12, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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AUG 22 2007

OFFICE OF PETITIONS

Donald J. Price
904 East Water Street
P.O. Box 386
Prospect, OH 43342

In re Application of	:	
Donald J. Price	:	
Application No. 11/880,039	:	DECISION ON PETITION
Filed: July 19, 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 July 19, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a signed statement by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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 3636 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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ROSS J. OEHLER
CEPHALON, INC.
41 MOORES ROAD
PO BOX 4011
FRAZER PA 19355

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OCT 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Dobrzanski et al.	:	
Application No. 11/880,063	:	DECISION ON PETITION
Filed: July 19, 2007	:	
Attorney Docket No. CP418	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 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 non-final Office action mailed July 22, 2008, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on January 23, 2009. A Notice of Abandonment was mailed April 6, 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 $1,620.00, and (3) an adequate 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. 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 the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 1614 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stephanie A. Barbosa
Woodcock Washburn
Cira Centre, 12th Floor
2929 Arch St.
Philadelphia PA 19103

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Paper No.

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater IA 50244

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APR 14 2009

OFFICE OF PETITIONS

In re Application of David D. Hoffman et al. Application No. 11/880,075 Filed: July 19, 2007 Attorney Docket No.: S06-CL959411 Title: SOYBEAN CULTIVAR S06-CL959411	: : : : : : : :	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.183

This is a decision on the petition pursuant to 37 C.F.R. § 1.183, filed March 9, 2009. Petitioner has requested the waiver of the requirement present in 37 C.F.R. § 1.312 which prohibits the filing of an amendment after the payment of the issue fee.

This submission is being treated as a petition pursuant to 37 C.F.R. § 1.183, requesting the waiver of 37 C.F.R. §§ 1.312 and 1.809(e).

Receipt of the concurrently submitted amendment is acknowledged.

On November 14, 2008, the Office mailed a Notice of Allowance and Issue Fee Due that set a shortened statutory period for reply of three months. The notice indicated that the applicable

biological material would need to be deposited, pursuant to 37 C.F.R. § 1.809(c).[1]

On February 17, 2009, the issue fee was received, along with an after-final amendment which attempted to amend the specification and claims so as to include the date of deposit of the biological material, a description of the deposited material including number of seeds deposited, and the name and address of the depository, as required by MPEP § 1.809(d).[2] This amendment was not entered by the Examiner. On February 26, 2009, the Office mailed a "Response to Rule 312 Communication," indicating that the amendments to the specification and claims failed to include the Accession number.

However, it is noted that on April 1, 2009, a "NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)" was mailed, indicating that the Technology Center has withdrawn this application from issue.

It follows that this petition is no longer necessary. As such, this petition is **DISMISSED AS MOOT.**

It is noted that Petitioner has submitted $130 towards the $400 petition fee. As this petition has been dismissed as moot, this partial payment of the petition fee will be refunded to Petitioner's Deposit Account in due course.

The Technology Center will be notified of this decision, and jurisdiction over the application is transferred to the Technology Center. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was submitted concurrently with this petition on March 9, 2009 can be processed in due course, in accordance with the instruction contained in the final paragraph of the notice of April 1, 2009.

---

1 "If an application for patent is otherwise in condition for allowance except for a needed deposit and the Office has received a written assurance that an acceptable deposit will be made, applicant will be notified and given a period of time within which the deposit must be made in order to avoid abandonment. This time period is not extendable under § 1.136(a) or (b) if set forth in a "Notice of Allowability" or in an Office action having a mail date on or after the mail date of a "Notice of Allowability" (see § 1.136(c))."

2 "For each deposit made pursuant to these regulations, the specification shall contain:
(1) The accession number for the deposit;
(2) The date of the deposit;
(3) A description of the deposited biological material sufficient to specifically identify it and to permit examination; and
(4) The name and address of the depository."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures should be directed to the Examiner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/880,076	07/19/2007	Roger L. McBroom	S06-02JR423016	5652

7590 03/06/2009

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater, IA 50244

EXAMINER
KALLIS, RUSSELL

ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAR 0 6 2009

Dana S. Rewoldt, Esq.
Syngenta Seeds, Inc.
2369 330th St
Box 500
Slater IA 50244

In re Application of:	:
McBroom et al.	: PETITION DECISION
Serial No.: 11/880,076	:
Filed: July 19, 2007	:
Attorney Docket No.: **S06-02JR423016**	

This is in response to the petition under 37 CFR § 1.59(b), filed February 26, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on September 25, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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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MAILED OCT 02 2009

Eugene OAK
610 S. Van Ness Ave.
Los Angeles CA 90005

In re Application of: Ink Yun Kim Application No.: 11/880079 Filed: July 20, 2007 Title: METHOD OF DURABLY GRAFTING DECORATED COTTON FABRICS TO COTTON CLOTHS SUCH AS JEANS WITH STENCIL	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on September 4, 2009 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must

meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. The Notice of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) can be accessed on the internet at
http://www.uspto.gov/web/offices/com/sol/notices/71fr36323.pdf

Further guidance may be found website of the USPTO at
http://www.uspto.gov/web/patents/accelerated

under the accelerated examination link.

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

Any inquiry regarding this decision should be directed to Linda Sholl, TC 3700 Special Program Examiner, at (571) 272-4391.

Linda Sholl

Linda Sholl
Special Program Examiner
Technology Center 3700

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P.O. Box 1450
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ORIZ W. JOHNSON
7086 BUTTERWOOD DRIVE
CINCINNATI, OH 45241-1035

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AUG 03 2007

OFFICE OF PETITIONS

In re Application of	:	
JOHNSON, Oriz W.	:	
Application No. 11/880,084	:	DECISION ON PETITION
Filed: July 20, 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 July 20, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the statement/affidavit of inventor Oriz W. Johnson, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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

The application is being forwarded to the Technology Center 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
Alexandria, VA 22313-1450
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KENT G ANDERSON
FUTURE SM/TM
925 N GRIFFIN
BISMARCK ND 58501

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MAR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
KENT G ANDERSON	:	
Application No. 11/880086	:	
Filing or 371(c) Date: 07/20/2007	:	LETTER
Title of Invention: METHOD	:	

This letter addresses the correspondence received November 23, 2007.

Background

Application papers in the above-identified were filed on July 20, 2007. On August 7, 2007, the Office of Patent Application Processing mailed a Notice to File Corrected Application Papers (hereinafter "Notice"), informing Applicant that the application had been accorded a filing date, and requiring

1) a Substitute specification;
2) replacement drawings;
3) if correction of the specification and drawings caused the page count of the specification and drawings to exceed 100 pages, an additional page fee, and
4) either additional claim fees of $1000, or cancellation of the additional claims.

The August 24, 2007 correspondence

Petitioner responded to the Notice and included a Substitute specification and replacement drawings, along with copies of the application papers filed on July 20, 2007, and a check for $120. Petitioner requested more time to pay the fees. Petitioner stated that the Patent Office could use the drawings filed seven years ago. Petitioner also requested revival of application no. 60/393,064.

Because the papers included a response to the Notice in the present application, albeit an incomplete response, the response will be forwarded to the Office of Patent Appplication Processing, for processing.

Because Applicant requested revival of application no. 60/393,064, and not the present application, no petition was filed in the present application (also, the present application is not abandoned, and revival is unnecessary). As such, no petition fee was due. A letter was mailed addressing Applicant's correspondence.

Letter mailed November 9, 2007

In a letter to Petitioner, mailed November 9, 2007, the following was provided:

A. Request for more time

Petitioner was advised that Patent Office rules require timely replies in order to prevent an application from becoming abandoned. Extensions of time to file a reply, including a reply that is itself a fee, also requires a fee. The failure to timely file a fee will result in the abandonment of the application. For instance, here, the Notice required

3) if correction of the specification and drawings caused the page count of the specification and drawings to exceed 100 pages, an additional page fee, and

4) either additional claim fees of $1000, or cancellation of the additional claims.

The Notice gave Petitioner two (2) months to reply, including the appropriate fees. Office rules state that if Petitioner fails to file a complete and proper reply, which in this case includes the fees, the application will become abandoned. The Notice also stated that extensions of time were available under 37 CFR 1.136; however, Petitioner was advised that extensions of time require additional fees. For instance, the fee required for a one (1) month extension of time for a small entity is $60; for two (2) month extension the fee is $230; for a three month extension the fee is $525; for a four (4) month extension the fee is $820, and for a five month extension of time the fee is $1,115.

B. Using drawings filed seven years ago

Petitioner was advised that each file must be complete in and of itself. It is Petitioner's responsibility to file all of the papers required in an application that are necessary to complete that application. The Office cannot use the drawings from another application in this application.

C. Request for revival of application no. 60/393,064

Petitioner was advised that application no. 60/393,064 is a provisional application. Petitioner was advised that a provisional application expires after one (1) year and may not thereafter be revived.

If Petitioner fails to file a complete and proper reply, including any fees due, the application will become abandoned. When an application becomes abandoned, Applicant must file a petition to revive the application. The petition must include the reply that was originally due, and must also include a petition fee. A complete list of current Office fees are available at http://www.uspto.gov/main/howtofees.htm.

Petitioner was advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Petitioner was further advised that there is an Office here available to provide assistance: the Inventor's Assistance Center, at 1-800-786-9199, for assistance in prosecuting the patent application.

The present correspondence

Applicant/Petitioner files the present correspondence and requests revival of application 09/970,474. Applicant also files an amendment to the claims of the present application 11/880,086, and that the present application be forwarded to the examiner.

Applicant is advised that a petition to revive application 09/970,474 must be filed as a separate paper in application 09/970,474. Applicant may not file one paper for two or more applications. Each application has to have its own application papers.

The present application is not abandoned at this time.

Fees submitted

Applicant has submitted $220.00 in fees that this Office is holding as a miscellaneous fee. An additional $60.00 is also filed as an extension of time fee; however, no extension of time to reply to the Notice to File Corrected Application Papers is due, because Applicant timely filed a Response to the Notice on August 24, 2007. A refund of the extension of time fee and of the $220.00 being held as a miscellaneous fee has been scheduled via Treasury Check.

Conclusion

The Application is being referred to the Office of Patent Application Processing for processing of the reply to the Notice to File Corrected Application Papers, filed August 24, 2007, and for further processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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DEC 08 2008

OFFICE OF PETITIONS

In re Application of
Grady, et al.
Application No. 11/880,104
Filed: July 18, 2007
Attorney Docket No. –72045-000015
For: METHOD AND SYSTEM OF READING UTILITY METER DATA OVER A NETWORK

ON PETITION

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

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed August 6, 2007, which set a two month shortened statutory period for reply. No extensions of time or reply being received in the Office, this application became abandoned on October 7, 2007. A Notice of Abandonment was mailed on April 21, 2008.

Applicants have submitted a proper reply to the August 6, 2007 Notice in the form of an executed declaration, the basic filing fee, the surcharge, the search fee, the examination fee, and the additional claim fee, an acceptable statement of the unintentional nature of the delay in responding to the August 6, 2007 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

After the mailing of this decision, the 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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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AVON PRODUCTS, INC.
AVON PLACE
SUFFERN NY 10901

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Kalafsky : DECISION ON PETITION
Application No. 11/880,167 :
Filed: July 20, 2007 :
Atty. Dkt. No.: SC76U1-US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2010.

The petition is **GRANTED**.

This application became abandoned May 26, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed March 25, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed June 7, 2010.

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 has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No.

Kevin E. McVeigh
RHODIA INC.
CN 7500
8 Cedar Brook Dr.
CRANBURY NJ 08512-7500

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of Shanmuganandamurthy Krishnamurthy et al. Application No. 11/880,200 Filed: July 20, 2007 Attorney Docket No. RD 06015 Title: METHOD FOR MAKING DERIVATIZED GUAR GUM AND DERIVATIZED GUAR GUM MADE THEREBY	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.78(A)(6)

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(6), filed August 1, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment to the specification.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 C.F.R. § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS

but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the petition fee is unnecessary and has not been charged to Petitioner's Deposit Account.

The application is being forwarded to Technology Center AU 1623 for appropriate action on the amendment filed August 1, 2008, 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.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[2]. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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1 *Note* MPEP § 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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

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STMicroelectronics Inc.
c/o WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
BOSTON MA 02210-2206

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JUL 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,687,872 :
Issue Date: March 30, 2010 :
Application No. 11/880,253 : DECISION ON PETITION
Filed: July 20, 2007 :
Attorney Docket No. S1022.71169US00 :

This is a decision on the Request For Certificate Of Correction Pursuant to 37 CFR 1.323, filed May 20, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the third assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the omission of the third assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted third assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,687,872.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

CUSTOMER# 76102
YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of	:	
KROVITZ, David et al.	:	
Application No. 11/880,255	:	DECISION ON PETITION
Filed: July 20, 2007	:	TO WITHDRAW
Attorney Docket No. **324212019000**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2010.

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

A review of the file record indicates that the power of attorney to Customer No. 76102 has been revoked by the assignee of the patent application on April 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **YAHOO! INC.**
C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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SEP 23 2009

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
SHRIER, David L. et al.	:	
Application No. 11/880,287	:	DECISION ON PETITION
Filed: July 20, 2007	:	TO WITHDRAW
Attorney Docket No. **13946/6**	:	FROM RECORD
	:	

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 08, 2009.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID L. SHRIER**
711 PRESIDENT STREET, #2
BROOKLYN NY 11215

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Application of	:	
SHRIER, David L. et al.	:	
Application No. 11/880,287	:	DECISION ON PETITION
Filed: July 20, 2007	:	TO WITHDRAW
Attorney Docket No. **13946/6**	:	FROM RECORD
	:	

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 23, 2009.

The request is **APPROVED**.

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

The request was signed by Joseph Coppola on behalf of all attorneys of record who are associated with customer No. 26646. All attorneys/agents associated with the Customer Number 26646 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **DAVID L. SHRIER**
711 PRESIDENT STREET, #2
BROOKLYN NY 11215

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Sante Guercioni	:	
Application No. 11/880,290	:	ON PETITION
Filed: July 20, 2007	:	
Attorney Docket No. 8059P001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2009.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on July 16, 2008. 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.

The application is being forwarded to Group Art Unit 3729 for examination in due course.

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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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
YOSHIDA, Shin	:	
Application No. 11/880,344	:	DECISION ON PETITION
Filed: July 19, 2007	:	TO WITHDRAW
Attorney Docket No. **ALPSP162D1/0041602US-01-**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 5, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **BEYER WEAVER LLP** of Oakland California has been revoked by the assignee of the patent application on May 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BEYER LAW GROUP LLP**
P.O. BOX 1687
CUPERTINO, CA 95015-1687

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
TAMURA, et al.	:	
Application No. 11/880,345	:	DECISION ON PETITION
Filed: July 19, 2007	:	TO WITHDRAW
Attorney Docket No. **ALPSP209D1/00-34764US-01-**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2008.

The request is **APPROVED.**

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

The request was signed by James E. Austin on behalf of all attorneys of record.

Mr. Haruo Yawata has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of :
Tuschl et al. :
Application No. 11/880,355 : ON PETITION
Filed: July 19, 2007 :
Attorney Docket No. W0571.70010US09 :

This is a decision on the petitions under 37 CFR §§ 1.36(a) and 1.183, filed July 20, 2009 and supplemented August 10, 2009, on behalf of Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. (Max-Planck), requesting revocation of power of attorney and waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners. This decision also addresses the response in opposition filed July 31, 2009 on behalf of Whitehead Institute for Biomedical Research (Whitehead), Massachusetts Institute of Technology (M.I.T.), and the University of Massachusetts (UMass).

The petitions are **GRANTED** to the extent indicated below.

Petitioner, Max-Planck, requests the USPTO to: (1) waive the single signature requirements of Rule 1.32(b)(4) due to an ongoing dispute, including litigation, with both the co-assignees and the practitioners at Wolf Greenfield & Sacks, P.C.; and (2) allow the appointment of attorneys Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. No. 36,105 as its representatives before the USPTO.

The application as filed named Thomas Tuschl (Tuschl), Phillip D. Zamore (Zamore), Phillip A, Sharp (Sharp), and David P. Bartel (Bartel) as inventors. The assignment records of the USPTO indicate: at reel/frame 019652/0733 that Tuschl assigned his rights to both Max-Planck and Whitehead, at reel/frame 019706/0137 that Zamore assigned his rights to UMass, at reel/frame 019705/0750 that Sharp assigned his rights to M.I.T., and at reel/frame 019705/0699 that Bartel assigned his rights to Whitehead. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. Such a determination must be made by a court of appropriate jurisdiction. Nonetheless, USPTO assignment records do suggest that Max-Planck has an interest in the instant application such that none of the co-assignees own the entire right, title and interest in this application. *See Ethicon, Inc. v. United States Surgical Corp.*, 135

F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir. 1998), *cert denied*, 525 U.S. 923 (1998). The co-assignees are each but a *partial* assignee. *But see* 37 CFR 3.71(b)(2).

Only the owner of the *entire* right, title and interest in an application has the sole right to control prosecution of an application. *See In re Goldstein*, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988); see also *In re Scold*, 195 USPQ 335,336 (Comm'r Pat. 1976); *Ex parte Harrison,* 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR §§ 1.36, 3.71, and 3.73(b)) serve to assure that papers filed with USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* right, title and interest in the application or patent. *See Goldstein*, 16 USPQ2d at 1964. Nonetheless, papers revoking a power of attorney in an application (or giving a power of attorney) will be accepted by the Office when signed by less than all of the applicants or owners of the application when they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. *See* MPEP 402.10.

The response filed July 31, 2009 asserts that the sole right to control the instant application is set by contract. However, agreements made by contract are not construed by the USPTO in relation to the revocation and appointment of power of attorney since state law governs contractual obligations and transfers of property rights, including those relating to patents. *See Regents of the University of New Mexico v. Knight*, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). If a court clearly decides this matter, the court decision and the appropriate power of attorney documents should be promptly filed in this application. Absent a clear determination by an appropriate authority regarding representation of the parties in the instant application, the alleged contractual agreements that established representation in this case will not determine a party's sole right to control the case. Thus, the principles set forth in *In re Goldstein* remain valid here.

Also, the response's speculation that Max-Planck is motivated by nefarious purposes and should not be able to appoint counsel of its choosing is not relevant since a party's future intent is not considered by the USPTO in this situation. The Office is not the best forum in which to determine a party's intent. Such intent is best determined when the trier of facts can observe demeanor of witnesses subjected to cross-examination. A court, with subpoena power, is presently the best forum to consider such an issue. The court proceeding involves two participating adverse parties and the courts, not the Office, are in the best position to fashion an equitable remedy to fit the precise facts of the case. Accordingly, the speculated intent of Max-Planck will not determine that party's representation in this application. Moreover, any future harm caused by the actions (or inactions) of Max-Planck may find relief in a court of appropriate jurisdiction.

Since Max-Planck and the other co-assignees have divergent interests, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the others. Furthermore, denying Max-Planck the ability to choose its own counsel and

requiring Max-Planck to have its interests represented by an opposing party in litigation would not be appropriate for the USPTO. The ongoing disputes, including litigation, between Max-Planck and both the co-assignees and the practitioners at Wolf Greenfield & Sacks, P.C provide sufficient cause for Max-Planck to revoke a power of attorney that it previously gave and an extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) so that Max-Planck may appoint counsel of its choosing.

In accordance with MPEP 402.10, the requested appointment of Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. No. 36,105 to represent Max-Planck is **granted** as of the mail date of this decision. The revocation and appointment of new counsel applies only to Max-Planck and those to whom it's right, title and interest are assigned. The practitioners of Wolf Greenfield & Sacks, P.C may continue to represent the other co-assignees.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent—must be signed by both: (1) a registered practitioner representing Max-Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

Since there is no agreement between the parties as to the correspondence address, the correspondence address for this application will remain with Wolf Greenfield & Sacks, P.C, as they were first named in the application. *See* MPEP 402.10. Also, Wolf Greenfield & Sacks, P.C will be responsible for coordinating replies or submissions to the USPTO, unless the parties otherwise agree after the mailing date of this decision.

This decision is being mailed to the address of record for the above-identified application. In order to ensure that the requesting party is notified of the decision, the decision is also being forwarded to the address on the petition. However, future correspondences will be forwarded to the address of record unless the address is properly changed.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

This application is being referred to Technology Center 1600. The Technology Center is advised that communications filed on or after the mailing date of this decision not signed in accordance with this decision must also be regarded as informal, and as such, to take the action it deems appropriate.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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NOV 23 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tuschl et al. :
Application No. 11/880,355 :
Filed: July 19, 2007 :
Attorney Docket No. W0571.70010US09 :

This is a decision on the request for reconsideration filed October 22, 2009 on behalf of Whitehead Institute for Biomedical Research (Whitehead), Massachusetts Institute of Technology (M.I.T.), and the University of Massachusetts (UMass). The petition filed October 22, 2009 requests that the USPTO vacate the decision on the petitions filed under 37 CFR §§ 1.36(a) and 1.183 granting revocation of power of attorney and waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners. This decision also addresses the response in opposition filed November 2, 2009 on behalf of Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. (Max-Planck).

The request for reconsideration is **DISMISSED**.

The decision mailed September 3, 2009 by the USPTO indicated that due to the existing conflict of interest between the parties "...a clear determination by an appropriate authority regarding representation of the parties in the instant application" was required before any party would gain the sole right to control the case. Petitioner now submits a decision by the U.S. District Court for the District of Massachusetts on a requested preliminary injunction to establish the representation of the parties. However the decision is not a clear determination regarding representation of the parties.

The District Court's decision mostly focused on issues unrelated to representation in the above-identified application, with only some discussion of representation. Whitehead's responsibility for prosecuting Tuschl I application, with good-faith consideration of Max-Planck's comments and advice, was discussed. In addition, the last paragraph on page 15 through the first full paragraph on page 16 of the decision is relevant to the matter of representation in that those paragraphs consider the contractual agreements related to representation. However, the decision did not give a clear interpretation of the agreement regarding representation of the above-identified application. Rather, the decision indicated that Max-Planck does not have "veto power" over Whitehead's decisions on prosecution, which is recognized as a different matter

than that before the USPTO in this application. Moreover, the decision was only on a preliminary injunction considering Max-Planck's likelihood of success on the merits without resolving the matters of representation. A clear determination regarding representation of the parties cannot be found in the decision.

Furthermore, the Office is not persuaded by the contention that permitting Max-Planck to chose its own counsel under the circumstances amounts to granting Max-Planck "veto power" over the application. This contention presumes that Max-Planck will not cooperate in the prosecution of the application and force its abandonment, which is speculation. Also, in the event that such a scenario should unfold, the application may be revived under 37 CFR 1.137 after a clear determination regarding representation of the parties is given by an appropriate authority and power of attorney in the application is changed accordingly. While such abandonment may delay prosecution, it does not have to prevent its completion. For the same reason, the alternative request to stay the decision on Power of Attorney is dismissed. The parties will not be permitted to exclude Max-Planck from prosecution until the issues of representation are clearly resolved by an appropriate authority.

As discussed in the decision mailed September 3, 2009 by the USPTO, the revocation and appointment of new counsel applies only to Max-Planck and those to whom it's right, title and interest are assigned. The practitioners of Wolf Greenfield & Sacks, P.C may continue to represent the other co-assignees.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent – must be signed by both: (1) a registered practitioner representing Max-Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

The Technology Center is again advised that communications filed on or after September 3, 2009 not signed in accordance with the earlier petition decision must also be regarded as informal, and as such, to take the action it deems appropriate.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

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The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
Midland MI 48641-1967

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OFFICE OF PETITIONS

In re Application of	:	
Li et al.	:	
Application No. 11/880381	:	
Filing or 371(c) Date: 07/20/2007	:	ON PETITION
Title of Invention:	:	
ZONE CATALYZED SOOT FILTER	:	

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

This Petition to withdraw the holding of abandonment is hereby **dismissed as inappropriate**.

Background

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 10, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination ("RCE") and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

Applicant filed an Amendment in response to the Office action on June 8, 2009; however, the Amendment failed to place the application in condition for allowance. Applicant was so advised in an Advisory Action mailed June 12, 2009. Applicant filed a Notice of Appeal on July 10, 2009, along with an authorization to charge any fees which may be required to Applicant's deposit account. A review of Office records reveals that no extension of time fees were charged. Accordingly, the date of abandonment of this application is June 11, 2009.

Applicable law, Rules and MPEP

The MPEP 711.03(c(II))(A)(2) Abandonment for failure to reply within time period, states

> (b) Abandonment for Failure To Reply to a Final Action
> A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection

of, each claim so rejected.

Analysis and conclusion

As noted supra, the proposed reply required for consideration of a petition to revive may be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)). In this instance, Applicant timely filed, within the maximum extendable period for reply, a Notice of Appeal and appeal fee via the authorization to charge Applicant's deposit account any required fees. Thereafter, Applicant/ Appellant was required to file an appeal brief in compliance with 37 CFR 41.37 accompanied by the fee set forth in 37 CFR 41.20(b)(2) within two months from the date of filing the notice of appeal. Extensions of this two (2) month time period are available. See, MPEP § 1205.

Accordingly, the application is not abandoned. The petition fee has been refunded to Applicant's deposit account.

Applicant's deposit account has been charged the fee for a one (1) month extension of time as authorized in the Notice of Appeal filed July 10, 2009.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
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The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
Midland MI 48641-1967

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JAN 08 2010

In re Application of	:	
Li et al.	:	
Application No. 11/880381	:	
Filing or 371(c) Date: 07/20/2007	:	ON PETITION
Title of Invention:	:	
ZONE CATALYZED SOOT FILTER	:	

This is a decision on the third petition to revive the application under 37 CFR 1.137(b), filed October 22, 2009.

The petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 10, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination ("RCE") and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation application No. 12/560,062, filed September 15, 2009.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Takayoshi Ohtsu	: DECISION ON REQUEST FOR
Patent Number	: 7595952	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/880,400	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **26** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Brett Bleacher et al.	:	
Application No. 11/880,402	:	DECISION ACCORDING STATUS
Filed: July 20, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. P2487US	:	

CORRECTED DECISION[1]

This is in response to the petition filed February 13, 2008 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 20, 2007 without a signed declaration. Accordingly, on August 13, 2007, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed by all joint inventors except Mark Thompson and the instant petition under 37 CFR 1.47(a) was filed with a four month extension of time. The petition argues that joint inventor Thompson refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Thompson and that he has expressly, in writing, refused to sign the oath or declaration or to cooperate with the filing of the instant application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this

[1]This decision corrects and supercedes all previous decisions mailed in this matter.

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.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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Date Mailed: August 21, 2009
Patent No. :7,498,958 B1
Ser. No. :11/880416
Issued : March 3, 2009
Inventor(s) :Wayne S. Lee
Title :FRACTIONAL SAMPLING FILTER

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Joseph W. Price
Snell & Wilmer LLP
600 Anton Boulevard, Ste. 1400
Costa Mesa, CA 92626

MD/mt

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HAVERSTOCK & OWEN LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

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JAN 04 2010

In re Patent No. 7,498,958	:	
Issue Date : March 3, 2009	:	
Application No. 11/880,416	:	ON PETITION
Filed: July 19, 2007	:	
Attorney Docket No. TROP-02400	:	

This is a decision on the petition, filed August 27, 2009, 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) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

The petition fee of $130 has been charged to Deposit Account No. 19-2814.

---

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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SUNNYVALE CA 94086

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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,498,958	:	
Issue Date: March 3, 2009	:	
Application No. 11/880,416	:	ON PETITION
Filed: July 19, 2007	:	
Attorney Docket No. TROP-02400	:	

This is a decision on the petition filed January 25, 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 Diane Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Tuschi et al.	:	CORRECTION OF
Application No. 11/880,464	:	POWER OF ATTORNEY
Filed: July 19, 2007	:	
Attorney Docket No. W0571.70010US08	:	

This is regarding the petition to revoke the attorney of record and appoint new attorneys, filed July 20, 2009, which was approved on August 4, 2009.

The change in Power of Attorney and correspondence address granted on August 4, 2009 is hereby **vacated**.

The request to revoke the Power of Attorney under 37 CFR 1.36(a) was prematurely approved. Since the requested revocation and appointment is by an assignee of less than the entire interest in the application, the petition is to be treated as a petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. Such a petition must be reviewed by the Office of Petitions as set forth in MPEP 402.10.

The Power of Attorney and correspondence address have been reset in USPTO systems to those established prior to the erroneous approval of August 4, 2009. Pending further deliberations by the Office of Petitions on the petition filed July 20, 2009, future communications from the Office will continue to be directed to the above-listed address. Also, the related petitions filed July 31, 2009 and August 10, 2009 are noted.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K. Street, N.W., Suite 800
Washington, D.C. 20005

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OFFICE OF PETITIONS

In re Application of :
Tuschl et al. :
Application No. 11/880,464 :
Filed: July 19, 2007 :
Attorney Docket No. W0571.70010US08 :

ON PETITION

This is a decision on the petitions under 37 CFR §§ 1.36(a) and 1.183, filed July 20, 2009 and supplemented August 10, 2009, on behalf of Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. (Max-Planck), requesting revocation of power of attorney and waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners. This decision also addresses the response in opposition filed July 31, 2009 on behalf of Whitehead Institute for Biomedical Research (Whitehead), Massachusetts Institute of Technology (M.I.T.), and the University of Massachusetts (UMass).

The petitions are **GRANTED** to the extent indicated below.

Petitioner, Max-Planck, requests the USPTO to: (1) waive the single signature requirements of Rule 1.32(b)(4) due to an ongoing dispute, including litigation, with both the co-assignees and the practitioners at Wolf Greenfield & Sacks, P.C.; and (2) allow the appointment of attorneys Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. No. 36,105 as its representatives before the USPTO.

The application as filed named Thomas Tuschl (Tuschl), Phillip D. Zamore (Zamore), Phillip A, Sharp (Sharp), and David P. Bartel (Bartel) as inventors. The assignment records of the USPTO indicate: at reel/frame 021729/0793 that Tuschl assigned his rights to both Max-Planck and Whitehead, at reel/frame 019746/0150 that Zamore assigned his rights to UMass, at reel/frame 019705/0828 that Sharp assigned his rights to M.I.T., and at reel/frame 019652/0719 that Bartel assigned his rights to Whitehead. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. Such a determination must be made by a court of appropriate jurisdiction. Nonetheless, USPTO assignment records do suggest that Max-Planck has an interest in the instant application such that none of the co-assignees own the entire right, title and interest in this application. *See Ethicon, Inc. v. United States Surgical Corp.*, 135

F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir. 1998), *cert denied*, 525 U.S. 923 (1998). The co-assignees are each but a *partial* assignee. *But see* 37 CFR 3.71(b)(2).

Only the owner of the *entire* right, title and interest in an application has the sole right to control prosecution of an application. *See In re Goldstein*, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988); see also *In re Scold*, 195 USPQ 335,336 (Comm'r Pat. 1976); *Ex parte Harrison,* 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR §§ 1.36, 3.71, and 3.73(b)) serve to assure that papers filed with USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* right, title and interest in the application or patent. *See Goldstein*, 16 USPQ2d at 1964. Nonetheless, papers revoking a power of attorney in an application (or giving a power of attorney) will be accepted by the Office when signed by less than all of the applicants or owners of the application when they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. *See* MPEP 402.10.

The response filed July 31, 2009 asserts that the sole right to control the instant application is set by contract. However, agreements made by contract are not construed by the USPTO in relation to the revocation and appointment of power of attorney since state law governs contractual obligations and transfers of property rights, including those relating to patents. *See Regents of the University of New Mexico v. Knight*, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). If a court clearly decides this matter, the court decision and the appropriate power of attorney documents should be promptly filed in this application. Absent a clear determination by an appropriate authority regarding representation of the parties in the instant application, the alleged contractual agreements that established representation in this case will not determine a party's sole right to control the case. Thus, the principles set forth in *In re Goldstein* remain valid here.

Also, the response's speculation that Max-Planck is motivated by nefarious purposes and should not be able to appoint counsel of its choosing is not relevant since a party's future intent is not considered by the USPTO in this situation. The Office is not the best forum in which to determine a party's intent. Such intent is best determined when the trier of facts can observe demeanor of witnesses subjected to cross-examination. A court, with subpoena power, is presently the best forum to consider such an issue. The court proceeding involves two participating adverse parties and the courts, not the Office, are in the best position to fashion an equitable remedy to fit the precise facts of the case. Accordingly, the speculated intent of Max-Planck will not determine that party's representation in this application. Moreover, any future harm caused by the actions (or inactions) of Max-Planck may find relief in a court of appropriate jurisdiction.

Since Max-Planck and the other co-assignees have divergent interests, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the others. Furthermore, denying Max-Planck the ability to choose its own counsel and

requiring Max-Planck to have its interests represented by an opposing party in litigation would not be appropriate for the USPTO. The ongoing disputes, including litigation, between Max-Planck and both the co-assignees and the practitioners at Wolf Greenfield & Sacks, P.C provide sufficient cause for Max-Planck to revoke a power of attorney that it previously gave and an extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) so that Max-Planck may appoint counsel of its choosing.

In accordance with MPEP 402.10, the requested appointment of Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. No. 36,105 to represent Max-Planck is **granted** as of the mail date of this decision. The revocation and appointment of new counsel applies only to Max-Planck and those to whom it's right, title and interest are assigned. The practitioners of Wolf Greenfield & Sacks, P.C may continue to represent the other co-assignees.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent—must be signed by both: (1) a registered practitioner representing Max-Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

Since there is no agreement between the parties as to the correspondence address, the correspondence address for this application will remain with Wolf Greenfield & Sacks, P.C, as they were first named in the application. *See* MPEP 402.10. Also, Wolf Greenfield & Sacks, P.C will be responsible for coordinating replies or submissions to the USPTO, unless the parties otherwise agree after the mailing date of this decision.

This decision is being mailed to the address of record for the above-identified application. In order to ensure that the requesting party is notified of the decision, the decision is also being forwarded to the address on the petition. However, future correspondences will be forwarded to the address of record unless the address is properly changed.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

This application is being referred to Technology Center 1600. The Technology Center is advised that communications filed on or after the mailing date of this decision not signed in accordance with this decision must also be regarded as informal, and as such, to take the action it deems appropriate.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tuschl et al. :
Application No. 11/880,464 :
Filed: July 19, 2007 :
Attorney Docket No. W0571.70010US08 :

This is a decision on the request for reconsideration filed October 22, 2009 on behalf of Whitehead Institute for Biomedical Research (Whitehead), Massachusetts Institute of Technology (M.I.T.), and the University of Massachusetts (UMass). The petition filed October 22, 2009 requests that the USPTO vacate the decision on the petitions filed under 37 CFR §§ 1.36(a) and 1.183 granting revocation of power of attorney and waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners. This decision also addresses the response in opposition filed November 2, 2009 on behalf of Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. (Max-Planck).

The request for reconsideration is **DISMISSED**.

The decision mailed September 3, 2009 by the USPTO indicated that due to the existing conflict of interest between the parties "...a clear determination by an appropriate authority regarding representation of the parties in the instant application" was required before any party would gain the sole right to control the case. Petitioner now submits a decision by the U.S. District Court for the District of Massachusetts on a requested preliminary injunction to establish the representation of the parties. However the decision is not a clear determination regarding representation of the parties.

The District Court's decision mostly focused on issues unrelated to representation in the above-identified application, with only some discussion of representation. Whitehead's responsibility for prosecuting Tuschl I application, with good-faith consideration of Max-Planck's comments and advice, was discussed. In addition, the last paragraph on page 15 through the first full paragraph on page 16 of the decision is relevant to the matter of representation in that those paragraphs consider the contractual agreements related to representation. However, the decision did not give a clear interpretation of the agreement regarding representation of the above-identified application. Rather, the decision indicated that Max-Planck does not have "veto power" over Whitehead's decisions on prosecution, which is recognized as a different matter

than that before the USPTO in this application. Moreover, the decision was only on a preliminary injunction considering Max-Planck's likelihood of success on the merits without resolving the matters of representation. A clear determination regarding representation of the parties cannot be found in the decision.

Furthermore, the Office is not persuaded by the contention that permitting Max-Planck to chose its own counsel under the circumstances amounts to granting Max-Planck "veto power" over the application. This contention presumes that Max-Planck will not cooperate in the prosecution of the application and force its abandonment, which is speculation. Also, in the event that such a scenario should unfold, the application may be revived under 37 CFR 1.137 after a clear determination regarding representation of the parties is given by an appropriate authority and power of attorney in the application is changed accordingly. While such abandonment may delay prosecution, it does not have to prevent its completion. For the same reason, the alternative request to stay the decision on Power of Attorney is dismissed. The parties will not be permitted to exclude Max-Planck from prosecution until the issues of representation are clearly resolved by an appropriate authority.

As discussed in the decision mailed September 3, 2009 by the USPTO, the revocation and appointment of new counsel applies only to Max-Planck and those to whom it's right, title and interest are assigned. The practitioners of Wolf Greenfield & Sacks, P.C may continue to represent the other co-assignees.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent – must be signed by both: (1) a registered practitioner representing Max-Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

The Technology Center is again advised that communications filed on or after September 3, 2009 not signed in accordance with the earlier petition decision must also be regarded as informal, and as such, to take the action it deems appropriate.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
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Washington, D.C. 20005

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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JUL 06 2010
OFFICE OF PETITIONS

In re Application of :
Stephen R. Rumbaugh et al :
Application No. 11/880,466 : DECISION ON PETITION
Filed: July 19, 2007 :
Attorney Docket No. 4096P022 :

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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed September 19, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the reply received April 22, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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GROOVER & HOLMES
BOX 802889
DALLAS TX 75380-2889

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OCT 15 2007
OFFICE OF PETITIONS

In re Application of	:	
Richard A. Blanchard	:	
Application No. 11/880484	:	ON PETITION
Filing or 371(c) Date: 07/20/2007	:	
Attorney Docket Number: BLAN-21	:	

This Decision is in response to the "Petition to Correct Filing Date Under Rule 10," filed August 20, 2007, requesting the application be accorded a filing date of July 19, 2007, instead of the presently accorded filing date of July 20, 2007.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on July 19, 2007. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that July 19, 2007, was the date the correspondence was deposited Express Mail Post Office to Addressee.

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

The application is being referred to the Office of Patent Application Processing for correction of the filing date to July 19, 2007, and for the mailing of a Corrected Filing Receipt.

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

Derek L. Woods
Attorney
Office of Petitions

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Nancy A. Pappas
Life Sciences, Inc.
2900 72nd Street, North
St. Petersburg, FL 33710

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Simon Srybnik et al.	:	
Application No. 11/880,488	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SRY-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 23, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a signed declaration from both applicants. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2834 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Practitioner's Docket No. SRY - 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Srybnik et al
Application No.:
Filed:
For: Hydro-Electric Power Generating System
Group Art Unit:
Examiner:

PETITION TO MAKE SPECIAL

Honorable Commissioner for Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason; attached is a declaration in support thereof:

I.	☐ Manufacturer Available;*	VII.	☐ Recombinant DNA Is Involved;*
II.	☐ Infringement Exists:*	VIII.	☐ Special Procedure: Search Was Made;*
III.	☐ Applicant's Health Is Poor;	IX.	☐ Superconductivity Is Advanced;
IV.	☒ Applicant's Age is 65 or Greater;	X.	☐ Relates to HIV/AIDS or Cancer;*
V.	☐ Environmental Quality Will Be Enhanced;	XI.	☐ Counters Terrorism.*
VI.	☐ Energy Savings Will Result;		

*☐ also attached, since reason I, II, VII, VIII, X, or XI has been checked, is the $130 Petition Fee pursuant to Rules 102 and 17(i).

Attachment: Supporting Declaration

Respectfully submitted,

Nancy A. Pappas

Nancy A. Pappas
Reg. No. 34,099

DECLARATION

I hereby declare that:

I was born on June 15, 1916 in Minsk, Poland, and am currently 91 years old.

Simon Srybnik

July 11, 2007

Date

DECLARATION

I hereby declare that:

I was born on May 16, 1924 in Minsk, Poland, and am currently 83 years old.

Louis D. Srybnik

July 16, 2007

Date

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Offices of James J. Carter
Suite B-101
2801 NE 130th St.
Seattle WA 98125

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JUL 19 2010

OFFICE OF PETITIONS

In re Application of
Wesley Gary Sitton
Application No. 11/880,489
Filed: July 23, 2007
Attorney Docket No. sitton-2010-01

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 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 3, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 3, 2009. Accordingly, the date of abandonment of this application is December 4, 2009. A Notice of Abandonment was mailed on December 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GORDON E. CHURCHWARD
270 MAIN STREET #134
SILVER CITY, NV 89428

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Gordon E. Churchward	:	
Application No. 11/880,490	:	DECISION ON PETITION
Filed: July 23, 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 July 23, 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 declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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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.
11/880,508	07/23/2007	Toshio Nakakuki	YKI-0231	7655

7590 03/19/2009
CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER
YE, LIN

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
03/19/2009	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: 03/18/2009 BPOWELL
07/25/2007 HMARZI1 00000002 061130 11880508
02 FC:1111 500.00 CR

Adjustment Date: 03/18/2009 BPOWELL
03/07/2006 FFARAEIA 00000052 061130 11367237
02 FC:1111 500.00 CR

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Mauriel Kapouytian & Treffert LLP
151 First Avenue #23
New York, NY 10003

Mail Date: 05/17/2010

Applicant	: Andy Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7642831	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/880,577	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **113** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Dimitar T. Trifonov	: DECISION ON REQUEST FOR
Patent Number	: 7595676	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/880,582	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **149** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SAILE ACKERMAN LLC
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OFFICE OF PETITIONS

In re Application of	:	
Guo et al.	:	
Application No. 11/880585	:	
Filing or 371(c) Date: 07/23/2007	:	
Attorney Docket Number:	:	DECISION
HT03-018B	:	ON PETITION

This is a decision on the "Petition Under 37 CFR 1.182, or Alternatively Petition Under 37 CFR 1.57(a), filed October 11, 2007 (Certificate of Mailing dated October 9, 2007), requesting the above-identified application be accorded a filing date of July 23, 2007, including three (3) drawings, or alternatively that the drawings be added under 37 CFR 1.57(a).

The petition is granted to the extent indicated herein.

The application was filed on July 23, 2007. On August 9, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the present petition; preliminary amendment to add drawings; drawings and an application[1], and requests the above-identified application be accorded a filing date of July 23, 2007 despite the note on Applicant's postcard receipt that the 3 drawings were not received by this Office. In support of this request, Applicant states that the application was filed with three 93) sheets of drawings, and Applicant has multiple systems in place to ensure that all application parts are included in application filings. Applicant contends that the drawings were most likely lost in this Office.

Applicable Law, Rules and MPEP

Filing Date

A review of the file reveals that the specification contains process claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process,

[1] It is noted that the application filed with the petition differs from the application filed on July 23, 2007.

method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

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

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

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

To the extent that the present petition requests a filing date, the petition is **granted**.

The Notice mailed August 9, 2007, was mailed in error and is hereby withdrawn.

Omitted drawings

Applicant may attempt to add the omitted figure by way of amendment, and without a petition.

Amendment under 37 CFR 1.57(a)

The MPEP 601.01(f) provides that

> As an alternative to a petition under 37 CFR 1.53(e), if the drawing(s) was inadvertently omitted from an application filed on or after September 21, 2004, and the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted drawing(s) is completely contained in the prior-filed application, the applicant may submit the omitted drawing(s) by way of an amendment in compliance with 37 CFR 1.57(a). The amendment must be by way of a petition under 37 CFR 1.57(a)(3) accompanied by the petition fee set forth in 37 CFR 1.17(f). See MPEP § 201.17. (Emphasis supplied).

Applicant is advised that a petition is not necessary in this instance to add the omitted figures. 37 CFR 1.57(a), incorporation by reference, provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s).

However, where a filing date has been accorded an application, a petition is not necessary to add the omitted portion of the specification or drawing(s). "If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f)." 37 CFR 1.57(a)(3). (Emphasis supplied). *See*, *Also*, MPEP 201.17(F).

The Manual of Patent Examining Procedure ("MPEP") also provides that

> ...37 CFR 1.57(a) was added to provide a safeguard for applicants when a page(s) of the specification, or a portion thereof, or a sheet(s) of the drawing(s), or a portion thereof, is inadvertently omitted from an application, such as through a clerical error. 37 CFR 1.57(a) applies to applications filed on or after September 21, 2004. 37 CFR 1.57(a) permits inadvertently omitted material to be added to the application by way of a later filed amendment if the inadvertently omitted portion of the specification or drawing(s) is completely contained in a prior-filed application (for which priority/benefit is claimed) even though there is no explicit incorporation by reference of the prior-filed application. *See* MPEP § 201.17 for discussion regarding 37 CFR 1.57(a). *See* MPEP § 601.01(p). (Emphasis supplied).

MPEP 201.06(c)(IV)(B).

No petition is required. Acknowledgment is hereby made of receipt of the preliminary amendment filed with the present petition on October 11, 2007. Entry of an Amendment will be determined by the Examiner.

In view of the fact that the petition was necessitated by an error on the part of this Office, no petition fee has been charged and none is due.

The application will be returned to the Office of Initial Patent Examination for:

1. correction of the filing date to July 23, 2007;

2. withdrawal of the Notice of Incomplete Provisional Application mailed August 9, 2007;

3. mailing of a Notice of Omitted Item(s);

4. issuance of a corrected Filing Receipt

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

Derek L. Woods
Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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KIRK A. BUHLER
BUHLER ASSOCIATES
1101 CALIFORNIA AVE.
SUITE 208
CORONA, CA 92881

COPY MAILED

FEB 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Jesse Andrew Hatter, et al.	:	
Application No. 11/880,618	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. JH03-01U	:	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 Rosie Jean Hatter's drivers license. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2131 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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MAY 10 2010

OFFICE OF PETITIONS

KF ROSS PC
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900

In re Application of	:	
Klaus KUPPERS	:	
Application No. 11/880,635	:	DECISION ON PETITION
Filed: July 23, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23994	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 03, 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 **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1793 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/880,635	07/23/2007	1793	1000	23994	9	1

CONFIRMATION NO. 8024

CORRECTED FILING RECEIPT

535
KF ROSS PC
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX, NY 10471-0900

OC000000041276059

Date Mailed: 05/10/2010

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)

Klaus Kuppers, Erkrath, GERMANY;
Meinert Meyer, Erkrath, GERMANY;
Thomas Nerzak, Gelsenkirchen, GERMANY;
Uwe Plociennik, Ratingen, GERMANY;

Power of Attorney:
Andrew Wilford--26597
Jonathan Myers--26963

Domestic Priority data as claimed by applicant

This application is a DIV of 10/485,286 01/26/2004 ABN
which is a 371 of PCT/EP02/08271 07/25/2002

Foreign Applications
GERMANY 10137596.4 08/01/2001
EUROPEAN PATENT OFFICE (EPO) PCT/EP02/08271 07/25/2002

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 11/880,635**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System for cooling shape-rolled rails

Preliminary Class

266

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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MAILED
JUN 08 2010
OFFICE OF PETITIONS

In re Application of	:	
Klaus Kuppers et al	:	
Application No. 11/880,635	:	DECISION ON REQUEST FOR
Filed: July 23, 2007	:	REFUND
Attorney Docket No. 23994	:	

This is a decision on the Request For Refund filed May 13, 2010.

The request is **DISMISSED**.

Petitioner request a refund of the petition fee ($1,410.00) charged on December 3, 2009.

Petitioner states that, "The application was filed 23 July 2007 and the Application Data Sheet and Oath both correctly identified the priority applications, so that the priority claim was properly made and has never been in doubt." Petitioner further states that, "The Specification filed with the original application papers had a header stating "Div. Of SN 10/485286" on every page. The first paragraph of the specification identified the German and PCT priority applications in detail."

Petitioner is encouraged to note that the application did not **properly** claim benefit of Application No. 10/485,286 in a timely manner. Therefore, the petition fee of $1,410.00 is required and will not be refunded.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Date Mailed: August 25, 2009
Patent No. :7,553,357 B1
Ser. No. :11/880659
Issued :June 30, 2009
Inventor(s) :Akihito Sao
Title :INK COMPOSITION, INK CARTRIDGE, RECORDING METHOD, AND RECORDED PRODUCT

Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Raymond A. DiPerna
c/o Ladas & Parry LLP
26 West 61st Street
New York, NY 10023

MD/mt

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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.
11/880,667	07/24/2007	Sang-Wook Oh	5000-1-989	7704

7590 06/10/2009
CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER
YE, LIN

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
06/10/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Regln. Ref: 06/12/2009 BPOWELL 0014440900
DA#:502470 Name/Number:11880667
FC: 9204 $750.00 CR

Adjustment date: 06/12/2009 BPOWELL
07/25/2007 AMAKZII 00000087 11880667
02 FC:1111 -500.00 OP
04 FC:1202 -50.00 OP
05 FC:1201 -200.00 OP

FORM PET651G (Rev. 08/07)

Repln. Ref: 06/12/2009 BPOWELL 0014440900
DAH:502470 Name/Number:11880667
FC: 9204 $750.00 CR

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ONE RIVER ROAD
BUILDING 43 - ROOM 225
SCHENECTADY, NY 12345

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OFFICE OF PETITIONS

In re Application of
William J. Lawson et al.
Application No. 11/880,700
Filed: July 24, 2007
Attorney Docket No. 222564

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed on July 24, 2007 under 37 CFR 1.47.

The petition is **GRANTED**.

The above-identified application was filed on July 24, 2007 with the application, naming Rahul Mohan Joshi and William J. Lawson as joint inventors. The oath or declaration filed with the application was signed only by joint inventor Lawson and, the instant petition filed with the application, seeks status under 37 CFR 1.47, and claims that joint inventor Joshi refuses to join in the application.

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

The petition bears proof that the application papers were sent to the non-signing inventor at his last known address and that he has not responded. The fact that he has been forwarded the application papers and has not to date returned any executed documents, we will construe his actions to be that of a refusal.

The petition fee in the amount of $200.00 has been charged to deposit account no. 07-0849.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DONALD E. SCRUGGS
4464 WALNUT AVE.
CHINO, CA 91710

MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Scruggs	:	
Application No. 11/880,721	:	DECISION ON PETITION
Filed: July 24, 2007	:	
Attorney Docket No.	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 21, 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 Notice of Non-compliant Amendment (Notice), mailed September 29, 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 October 30, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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 (1, 2 and 3).

The petitioner failed to submit the required fee of $270 for the filing of a petition filed under the provisions of 37 CFR 1.137(a) in response to the Notice of Non-compliant Amendment. An additional $20 is required to meet the fee requirements of the petition. The fee is a requirement of the statutes and cannot be waived. See 35 U.S.C. 41(a)(7). Accordingly, the petition will not be further treated on its merits.

Additionally, any reply filed after the two (2) month time period set above without the appropriate extension of time under 37 CFR 1.136(a) will be considered as being untimely.

For petitioners convenience a copy of MPEP 711.03(c) Petitions Relating to Abandonment is included. Additionally, a courtesy copy of the September 29, 2008 Office action is being mailed

along with this decision. Petitioner is reminded that the claims presented with the amendment filed July 8, 2008 are not in compliance with 37 CFR 1.121.

37 CFR 1.121(c) states:

> Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions or deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using on e of the following identifiers in a parenthetical expressing: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (new) and (Not entered).

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 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 "Petition under 37 CFR 1.137." This is not a final agency action within the meaning of 5 U.S.C.§ 704.

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

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

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

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

Encl: Copy of MPEP 711.03(c)
Notice of Non-Compliant Amendment mailed September 29, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/880,721	07/24/2007	Donald E. Scruggs		8120

7590 09/29/2008

Donald E. Scruggs
4464 Walnut Ave.
Chino, CA 91710

EXAMINER
KENNEDY, JOSHUA T

ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
09/29/2008	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.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 11/880,721	Applicant(s) SCRUGGS, DONALD E.	
	Examiner JOSHUA T. KENNEDY	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 08 July 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/JTK/ Examiner, Art Unit 3679	/Daniel P. Stodola/ Supervisory Patent Examiner, Art Unit 3679

Continuation of 5 Other: It was not clear to the Examiner if this response was intended to be an Official response, so it will be treated as such. Applicant is to send all correspondence to the general U.S. Patent and Trademark Office address including the serial number, Examiner name, and art unit in the header and is directed to CFR 1.111 and 1.121 in regards to the manner of making amendments in applications. It is Applicant's responsibility to ensure that the subject matter of the newly presented claims be covered by the original specification. If Applicant wishes to make the patents discussed in the letter of record, they need to be included in an Information DIsclosure Statement (see MPEP 609). See MPEP 201.06 in regards to filing Divisional applications.

With respect to box 4, a complete listing of the claims is not present. The required format for presenting changes to the claims requires that all claims ever pending be listed. Further, any new claims must be numbered starting from the next higher number from that previously pending. In this case, there are six originally presented claims. This means that the next new claim added must be numbered as "claim 7". Further, if a claim is being canceled, the claim number must still be listed followed by the status identifier "(Canceled)". Any changes to a pending claim must be shown with strikethrough for deletions and underlining for additions and any claim being amended must have the status identifier "(Currently Amended)". See 37 CFR 1.121 and 37 CFR 1.126.

Further with respect to box 4, applicant should note that claims must be presented separately beginning on a separate sheet. In other words, new and/or amended claims cannot be incorporated within applicant's included remarks as applicant improperly did in the letter of July 8, 2008.

As noted on the cover form PTOL-324, applicant is given one month, or thirty days, whichever is longer, from the mailing date of this notice to supply a corrected response. Failure to timely respond will result in abandonment of the application.

provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 CFR 1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 CFR 1.137(a) or (b) (discussed below).

II. PETITIONS TO REVIVE AN ABANDONED APPLICATION, OR ACCEPT LATE PAYMENT OF ISSUE FEE

37 CFR 1.137 provides for the revival of abandoned applications and lapsed patents for the failure:

(A) to timely reply to an Office requirement in a provisional application;

(B) to timely prosecute in a nonprovisional application;

(C) to timely pay the issue fee for a design application;

(D) to timely pay the issue fee for a utility or plant application; and

(E) to timely pay any outstanding balance of the issue fee (lapsed patents).

A petition under 37 CFR 1.137(a) requires:

(A) the required reply, unless previously filed;

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

(C) a showing to the satisfaction of the Director of the USPTO 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(d).

A petition under 37 CFR 1.137(b) requires:

(A) the required reply, unless previously filed;

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

(C) 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(d).

The Director of the USPTO may require additional information where there is a question whether the delay was unintentional.

A. Reply Requirement

Unlike a petition to withdraw the holding of abandonment, a petition to revive under 37 CFR 1.137 must be accompanied by, *inter alia*, the required reply. See *Ex parte Richardson*, 1906 Dec. Comm'r Pat. 83 (1905) ("This Office has no authority to revive a case upon which no action has been taken within [the period for reply], but merely has authority to determine after an action is taken whether the delay in presenting it was unavoidable."). Generally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed. A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply.

37 CFR 1.137(c) applies to the reply requirement for petitions under 37 CFR 1.137(a) and (b). 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 (RCE) in compliance with 37 CFR 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 include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. See below for more details on the reply requirement in specific situations of abandonment.

1. Abandonment for Failure To Pay the Issue Fee or Publication Fee

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR

1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See *Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See *In re Mills*, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted.

In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

2. Abandonment for Failure To Reply in a Nonprovisional Application

(a) Abandonment for Failure To Reply to a Non-Final Action

The required reply to a non-final action in a nonprovisional application abandoned for failure to prosecute may be either:

(A) an argument or an amendment under 37 CFR 1.111;

(B) the filing of a continuing application under 37 CFR 1.53(b) (or a continued prosecution application (CPA) under 37 CFR 1.53(d) if the application is a design application).

The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, the patent examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(b) Abandonment for Failure To Reply to a Final Action

A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal and appeal fee;

(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for

utility or plant applications filed on or after June 8, 1995 (see paragraph **(d)** below); or

(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

An application subject to a final action in which a proposed amendment under 37 CFR 1.116 is filed as the required reply will normally be routed by the Office of Petitions to the Technology Center (TC) to determine whether a proposed amendment places the application in condition for allowance prior to granting any petition to revive such application. The examiner is instructed that if the reply places the application in condition for allowance, the examiner should write in the margin of the reply "OK to enter upon revival." For Image File Wrapper (IFW) processing, see IFW Manual. If the petition is otherwise grantable and the examiner indicates that the reply places the application in condition for allowance, the petition will be granted. If, on the other hand, the reply would not place the application in condition for allowance, the examiner is instructed to complete form PTOL-303 and return the form to the Office of Petitions with the application. Form PTOL-303 should not be mailed to the applicant by the examiner. In this situation, the Office of Petitions will not grant the petition. A copy of the form PTOL-303 is marked with the notation "Courtesy Copy" by the Office of Petitions. The courtesy copy is sent as an attachment with the decision on the petition. The advisory form PTOL-303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection. For Image File Wrapper (IFW) processing, see IFW Manual.

(c) Abandonment for Failure To File an Appeal Brief

In those situations where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) must be either:

(A) an appeal brief in compliance with 37 CFR 41.37(c) and appeal brief fee;

(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph **(d)** below); or

(C) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

(d) Filing an RCE as the Required Reply

For utility or plant applications abandoned for failure to reply to a final Office action or for failure to file an appeal brief, the required reply may be the filing of an RCE accompanied by a submission and the requisite fee. When an RCE is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) to revive such an application, the submission accompanying the RCE must be a reply responsive within the meaning of 37 CFR 1.111 to the last Office action. Consideration of whether the submission is responsive within the meaning of 37 CFR 1.111 to the last Office action is done without factoring in the "final" status of such action. The submission may be a previously filed amendment after final or a statement that incorporates by reference the arguments in a previously filed appeal or reply brief. See MPEP § 706.07(h), paragraph II.

The petition may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. After revival of the application, the examiner may, upon a more detailed review, determine that the reply is lacking in some respect. In this limited situation, the examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If the applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(e) A Continuing Application or RCE May Be Required by the Office

The Office may require the filing of a continuing application or an RCE (if the prosecution prior to abandonment was closed) (or request for further examination pursuant to 37 CFR 1.129(a)) to

meet the reply requirement of 37 CFR 1.137(a)(1) (or 37 CFR 1.137(b)(1)) where, under the circumstances of the application, treating a reply under 37 CFR 1.111 or 1.113 would place an inordinate burden on the Office. Exemplary circumstances of when treating a reply under 37 CFR 1.111 or 1.113 may place an inordinate burden on the Office are where:

(A) an application has been abandoned for an inordinate period of time;

(B) an application file contains multiple or conflicting replies to the last Office action; or

(C) the reply or replies submitted under 37 CFR 1.137(a)(1) (or 37 CFR 1.137(b)(1)) are questionable as to compliance with 37 CFR 1.111 or 1.113.

3. Abandonment for Failure To Notify the Office of a Foreign Filing After the Submission of a Non-Publication Request

If an applicant makes a nonpublication request upon filing with the appropriate certifications, the utility or plant application filed on or after November 29, 2000 will not be published under 35 U.S.C. 122(b)(1). See 35 U.S.C. 122(b)(2)(B)(i). If an applicant makes a nonpublication request and then rescinds, pursuant to 35 U.S.C. 122(b)(2)(B)(ii), the nonpublication request before or on the date a counterpart application is filed in a foreign country, or under a multilateral international agreement, that requires eighteen-month publication, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. See MPEP § 1123 and § 1124. An applicant who has made a nonpublication request, but who subsequently files an application directed to the invention disclosed in the U.S. application in a foreign country, or under a multilateral international agreement, that requires eighteen-month publication before the nonpublication request is rescinded, must, in addition to the rescission, notify the Office of such filing within forty-five days after the date of such filing. The requirement in 35 U.S.C. 122(b)(2)(B)(iii) for notice of the foreign filing is in addition to any rescission of the nonpublication request under 35 U.S.C. 122(b)(2)(B)(ii). If an applicant files a counterpart application in a foreign country after having filed an application in the USPTO with a nonpublication request, filing a rescission of the nonpublication request under 35 U.S.C. 122(b)(2)(B)(ii) without also providing a notice of the foreign filing in a timely manner will result in the abandonment of the U.S. application under 35 U.S.C. 122(b)(2)(B)(iii). 35 U.S.C. 122(b)(2)(B)(iii), however, also provides that an application abandoned as a result of the failure to timely provide such a notice to the Office is subject to revival if the "delay in submitting the notice was unintentional."

35 U.S.C. 122(b)(2)(B)(iii) provides for revival only on the basis of unintentional delay, and not on the basis of unavoidable delay. Therefore, a nonprovisional application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires eighteen-month publication may be revived only on the basis of unintentional delay pursuant to 37 CFR 1.137(b). The reply requirement of 37 CFR 1.137(c) is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under 37 CFR 1.137(b) will not operate to stay any period for reply that may be running against the application. Since the Office cannot ascertain whether an application is abandoned under 35 U.S.C. 122(b)(2)(B)(iii), the Office may continue to process and examine the application until the Office is notified of applicant's failure to meet the forty-five days notice requirement of 35 U.S.C. 122(b)(2)(B)(iii). Therefore, the filing of a petition under 37 CFR 1.137(b) to revive such an application will not operate to stay any period for reply that may be running against the application. Applicants may use form PTO/SB/64a to file a petition for revival under 37 CFR 1.137(b).

B. Petition Fee Requirement

35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory

prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a), was unavoidable.

C. *Unintentional and Unavoidable Delay*

Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account:

While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the 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" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See *Lumenyte Int'l Corp. v. Cable Lite Corp.*, Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c)**>, subsection II.C.2<. In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a).

Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually

must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b).

1. Unintentional Delay

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In order to expedite treatment, applicants filing a petition under 37 CFR 1.137(b) to revive an abandoned application are advised to include the statement "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," even if applicant chooses to include a statement of the facts concerning the delay. Applicants may use the forms provided by the Office (PTO/SB/64, PTO/SB/64a, or PTO/SB/64PCT).

D. *Delay Until the Filing of a Grantable Petition*

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:

(A) the delay in reply that originally resulted in the abandonment;

(B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and

(C) the delay in filing a **grantable** petition pursuant to 37 CFR 1.137 to revive the application.

As discussed above, the abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See *Application of G*, 11 USPQ2d at 1380. Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

(A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;

(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or

(C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See *Maldague*, 10 USPQ2d at 1478.

The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).

Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office *>may< consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,

(A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or

(B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).

Where a petition pursuant to 37 CFR 1.137(a) ** is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by *operation of law, rather than* by the mailing of a *Notice of Abandonment)>,< the Office will require:*

(A) further information as to when the applicant (or * applicant's representative) first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative) (see *Pratt*, 1887 Dec. Comm'r Pat. at 32-33).

>Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:

(A) further information as to when the applicant (or the applicant's representative) first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative).<

To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

E. Party Whose Delay Is Relevant

The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unavoidable or even unintentional. See *Kim v. Quigg*, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). When an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to file a reply to avoid abandonment, the applicant's actions, inactions or intentions are irrelevant under 37 CFR 1.137, unless the third party has reassigned the application to the applicant prior to the due date for the reply. *Id.*

Likewise, where the applicant permits a third party (whether a partial assignee, licensee, or other party) to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding on the applicant. See *Winkler*, 221 F. Supp. at 552, 138 USPQ at 667. Where an applicant enters an agreement with a third party for the third party to take control of the prosecution of an application, the applicant will be considered to have given the third party the right and authority to prosecute the application to avoid abandonment (or not prosecute), unless, by the express terms of the contract between applicant and the third party, the third party is conducting the prosecution of the application for the applicant solely in a fiduciary capacity. See *Futures Technology Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588, 1589 (E.D. Va. 1988). Otherwise, the applicant will be considered to have given the third party unbridled discretion to prosecute (or not prosecute) the application to avoid abandonment, and will be bound by the actions or inactions of such third party.

F. Burden of Proof To Establish Unavoidable or Unintentional Delay

37 CFR 1.137(a)(3) requires a showing to the satisfaction of the Director of the USPTO 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. Therefore, the Office will require the applicant in every petition under 37 CFR 1.137(a) to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable. See *Haines*, 673 F. Supp. at 316-17, 5 USPQ2d at 1131-32.

37 CFR 1.137(b)(3) requires that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in providing 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, but also provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." While the Office will generally require only the statement that the entire delay in providing 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 Office may require an applicant to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b) where there is a question whether the entire delay was unintentional. See *Application of G*, 11 USPQ2d at 1380.

G Terminal Disclaimer Requirement

37 CFR 1.137(d) requires that a petition under either 37 CFR 1.137(a) or 1.137(b) be accompanied by a terminal disclaimer (and fee), regardless of the period of abandonment, in:

(A) a design application;

(B) a nonprovisional utility application (other than a reissue application) filed before June 8, 1995; or

(C) a nonprovisional plant application (other than a reissue application) filed before June 8, 1995.

In addition, a terminal disclaimer (and fee) is also required for a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension under former 35 U.S.C. 154(b) (as a result of the Uruguay Round Agreements Act (URAA)). See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of abandonment. The requirement for a terminal disclaimer for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public. For utility and plant applications filed on or after May 29, 2000, a terminal disclaimer (and fee) is not required since the period of abandonment is reduced from the patent term adjustment pursuant to 37 CFR 1.704.

The terminal disclaimer submitted in a design application must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The terminal disclaimer submitted in either a utility or plant application filed before June 8, 1995 must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: (1) the period of abandonment of the application; or (2) the period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. The terminal disclaimer must also apply to any patent granted on any continuing utility or plant application filed before June 8, 1995, or any continuing design application, entitled under 35 U.S.C. 120, 121, or 365(c) to the benefit of the filing date of the application for which revival is sought. The terminal disclaimer requirement of 37 CFR 1.137(d) does not apply to (A) applications for which revival is sought solely for purposes of copendency with a utility or plant application filed on or after June 8, 1995, (B) lapsed patents, (C) reissue applications, or (D) reexamination proceedings.

The Office cannot determine (at the time a petition to revive is granted) the period disclaimed (i.e., which period is lesser: the period of abandonment of the application, or the period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed). Therefore, the Office will not indicate the period disclaimed under 37 CFR 1.137(d) in its decision granting a petition to revive an abandoned application.

The filing of a terminal disclaimer is not a substitute for unavoidable or unintentional delay. See *Application of Takao*, 17 USPQ2d at 1159. The requirement that the entire delay have been unavoidable (37 CFR 1.137(a)) or at least unintentional (37 CFR 1.137(b)) is distinct from the requirement for a terminal disclaimer. Therefore, the filing of a terminal disclaimer cannot excuse an intentional delay in filing a petition or renewed petition to revive an abandoned application. Likewise, an unavoidable or unintentional delay in filing a petition or renewed petition to revive an abandoned application will not warrant waiver of the terminal disclaimer requirement of 37 CFR 1.137(d).

In the event that an applicant considers the requirement for a terminal disclaimer to be inappropriate under the circumstances of the application at issue, the applicant should file a petition under 37 CFR 1.183 (and petition fee) to request a waiver of this requirement of 37 CFR 1.183. Such a petition may request waiver of this requirement *in toto*, or to the extent that such requirement exceeds the period considered by applicant as the appropriate period of disclaimer. The grant of such a petition, however, is strictly limited to situations wherein applicant has made a showing of an "extraordinary situation" in which "justice requires" the requested relief. An example of such a situation is when the abandonment of the application caused no actual delay in prosecution (e.g., an application awaiting decision by the Board of Appeals and Interferences during period of abandonment).

Forms PTO/SB/62 and PTO/SB/63 may be used when filing a terminal disclaimer in accordance with 37 CFR 1.137(d).

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MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Donald E. Scruggs	:	
Application No. 11/880,721	:	DECISION ON PETITION
Filed: July 24, 2007	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 7, 2009, or in the alternative a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

Both petitions are **DISMISSED.**

The application became abandoned for failure to reply in a timely manner to the Notice of Non-compliant Amendment (Notice), mailed September 29, 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 October 30, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

With respect to **37 CFR 1.137(a)**:

The petitioner has not satisfied the showing requirement has been met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent.

With respect to **37 CFR 1.137(b)**:

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) 3.

The instant petition fails to contain the required statement of unintentional delay. 37 CFR 1.37(b) states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [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 (II)(C) and (D)).]

The petition fee for the petition to revive under the unintentional provisions of 37 CFR 1.137(b) has been received in the Office along with the renewed petition.

Since the $250 fee filed with the petition on August 7, 2009 is considered an overpayment, it will be refunded to petitioner by Treasury Check.

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Attachment: Enclosures: Petition for Revival of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

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FEB 16 2010

OFFICE OF PETITIONS

In re Application of
Donald E. Scruggs
Application No. 11/880,721
Filed: July 24, 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 December 17, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed September 29, 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 October 30, 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 with corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received August 7, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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MAILED

FEB 12 2009

OFFICE OF PETITIONS

Applicant: Arrouy, et al.
Appl. No.: 11/880,738
Filing Date: July 24, 2007
Title: APPARATUS FOR MEASURING THE ELECTRICAL ENERGY DELIVERED TO A RAIL TRACTION UNIT BY A HIGH VOLTAGE LINE
Attorney Docket No.: 744.1024
Pub. No.: 2008/0024112 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 March 28, 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.

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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SEATTLE WA 98101

MAILED

FEB 23 2009

OFFICE OF PETITIONS

In re Application of	:	
BARDY, Gust H.	:	
Application No. 11/880,754	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO WITHDRAW
Attorney Docket No. **003.0708.US.CON**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2009.

The request is **APPROVED**.

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

The request was signed by Patrick Inouye on behalf of all attorneys of record who are associated with customer No. 49475. All attorneys/agents associated with the Customer Number 49475 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 Gust Bardy 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: **GUST H. BARDY**
2518 CONSTANCE DRIVE W.
SEATTLE WA 98199-3017

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
PLAZA VII- SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1630

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AUG 2 9 2007

In re Application of
James Gilstrap
Serial No: 11/880,759
Filed: July 23, 2007
For: USE OF CARPET SCRAPS TO IMPROVE PAINT COATING DURABILITY

PETITION UNDER M.P.E.P. 708.02, IV

This is in response to the petition filed July 23, 2007, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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FEB 29 2008

OFFICE OF PETITIONS

In re Application of:	:	
Tracy et al.	:	
Application No. 11/880787	:	DECISION DISMISSING
Filing or 371(c) Date: 07/24/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
POWER ADAPTER	:	

This Decision is in response to the correspondence filed January 7, 2008, in response to a Notice to File Missing Parts of Nonprovisional Application, mailed August 10, 2007. The correspondence is properly treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on July 24, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), on August 9, 2007, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition and declarations wherein Applicant provides that a letter was sent to the nonsigning inventor on September 4, 2007 and re-sent on October 5, 2007, along with a Declaration and Power of Attorney and Assignment requesting that the nonsigning inventor

execute the documents. The letters were delivered to the nonsigning inventor; however, no reply from the nonsigning inventor was received.

Applicant further provides that on November 13, 2007, he sent an urgent reminder letter via certified mail to the nonsigning inventor at the same last known address, along with a Declaration and Power of Attorney and Assignment requesting that the nonsigning inventor execute the documents. The mailing was returned to Applicant by the United States Postal Service indicating that the nonsigning inventor no longer lived at the last known address.

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), Applicant is advised that 37 CFR 1.47(a) provides for two separate and distinct instances that will allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). 37 CFR 1.47(a) requires proof that either 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).

Where it is alleged that the nonsigning inventor refuses to join in the application, the MPEP provides

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. (Emphasis supplied).

MPEP 409.03(d).

If the nonsigning inventor cannot be found or reached after diligent effort, the MPEP provides:

> 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 fact that a nonsigning inventor is on vacation or out of town and is

> therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

Analysis and conclusion

In this instance, when the whereabouts of the nonsigning inventor were known, Applicant did not mail the nonsigning inventor a copy of the application. Thereafter, when the nonsigning inventor no longer resided at the last known address, and the whereabouts of the nonsigning inventor became unknown, what is required is a showing of diligent effort in trying to find or reach the nonsigning inventor.

Conclusion

The petition is dismissed without prejudice. Applicant should determine the status of the nonsigning inventor, and satisfy the requirement as appropriate.

The petition fee, $200.00, has been charged to Petitioner's deposit account as authorized in the petition.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building

401 Dulany Street
Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of:	:	
Tracy et al.	:	
Application No. 11/880787	:	DECISION GRANTING
Filing or 371(c) Date: 07/24/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
POWER ADAPTER	:	

This Decision is in response to the "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," filed May 1, 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 **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, Jonathan R. Harris, cannot be found or reached after diligent effort.

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

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. JONATHAN R. HARRIS
15727 TYLERMONT DRIVE
CYPRESS, TX 77429

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of:	:	
Tracy et al.	:	
Application No. 11/880787	:	LETTER
Filing or 371(c) Date: 07/24/2007	:	
Title of Invention:	:	
POWER ADAPTER	:	

Dear Mr. Harris:

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: HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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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FORT COLLINS CO 80527-2400

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of:	:	
Tracy et al.	:	
Application No. 11/880788	:	DECISION DISMISSING
Filing or 371(c) Date: 07/24/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
ELECTRONIC DEVICE SHOCK-	:	
ABSORBING MOUNTING SYSTEM	:	

This Decision is in response to the correspondence filed December 26, 2007, in response to a Notice to File Missing Parts of Nonprovisional Application, mailed August 10, 2007. The correspondence is properly treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on July 24, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), on August 10, 2007, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition and declarations wherein Applicant provides that a letter was sent to the nonsigning inventor on August 31, 2007 and re-sent on October 5, 2007, along with a Declaration and Power of Attorney and Assignment requesting that the nonsigning inventor

execute the documents. The letters were delivered to the nonsigning inventor; however, no reply from the nonsigning inventor was received.
Applicant further provides that on November 13, 2007, he sent an urgent letter via certified mail to the nonsigning inventor at the same last known address, along with a Declaration and Power of Attorney and Assignment requesting that the nonsigning inventor execute the documents. The mailing was returned to Applicant by the United States Postal Service indicating that the nonsigning inventor no longer lived at the last known address.

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), Applicant is advised that 37 CFR 1.47(a) provides for two separate and distinct instances that will allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). 37 CFR 1.47(a) requires proof that either 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).

Where it is alleged that the nonsigning inventor refuses to join in the application, the MPEP provides

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. (Emphasis supplied).

MPEP 409.03(d).

If the nonsigning inventor cannot be found or reached after diligent effort, the MPEP provides:

> 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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable

> reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

Analysis and conclusion

In this instance, when the whereabouts of the nonsigning inventor were known, Applicant did not mail the nonsigning inventor a copy of the application. Thereafter, when the nonsigning inventor no longer resided at the last known address, and the whereabouts of the nonsigning inventor became unknown, what is required is a showing of diligent effort in trying to find or reach the nonsigning inventor.

Conclusion

The petition is dismissed without prejudice. Applicant should determine the status of the nonsigning inventor, and satisfy the requirement as appropriate.

The petition fee, $200.00, has been charged to Petitioner's deposit account as authorized in the Transmittal Form filed with the application on July 24, 2007.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

By hand: Customer Service Window
Randolph Building
401 Dulany Street

Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FORT COLLINS CO 80527-2400

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of:	:	
Tracy et al.	:	
Application No. 11/880788	:	DECISION GRANTING
Filing or 371(c) Date: 07/24/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
ELECTRONIC DEVICE SHOCK-	:	
ABSORBING MOUNTING SYSTEM	:	

This Decision is in response to the "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," filed April 181, 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 **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, Jonathan R. Harris, cannot be found or reached after diligent effort.

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

The application file is being referred to Technology Center Art Unit 3632 for examination in the normal course of business.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of:	:	
Tracy et al.	:	
Application No. 11/880788	:	LETTER
Filing or 371(c) Date: 07/24/2007	:	
Title of Invention:	:	
ELECTRONIC DEVICE SHOCK-	:	
ABSORBING MOUNTING SYSTEM	:	

Dear Mr. Harris:

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: HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

COPY MAILED

OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael W. Reed et al.	:	
Application No. 11/880,790	:	DECISION ON PETITION
Filed: July 24, 2007	:	
Attorney Docket No. BCST130645	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed September 6, 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 November 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a new set of claims, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Application No: 11/880,790 Date: 9/8/08

CHECKLIST - PETITION TO REVIVE (UNINTENTIONAL) 37 CFR 1.137(b)

Petition under 37 CFR 1.137(b) requires:

1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - utility and plant filed before 6/8/95 and all design cases;
4. Statement that the entire delay was unintentional.

Petition Date: 6/4/08

Petition Fee: (✓) $770/SM ( ) $1540/LG ( ) Not Paid

Is statement of unintentional delay present? (✓)YES ( )NO (Can statement be construed as unintentional?)

Is petition signed by attorney of record? (✓)YES ( )NO Petition address the same as address in palm. (✓)YES ( )NO

Mail Date of Office Action: 9/6/07

Type of Office Action: Notice to File Missing Parts

Statutory Response Period Set: ( ) 30 days ( ) 1 month (✓) 2 months ( ) 3 months

Ext of time obtained w/in SSP: ( )None ( )1 month ( )2 months ( )3 months ( )4 months

Abandonment Date: 11/7/07

Type of reply received: Claims

Terminal Disclaimer required: ( )YES (✓)NO (utility applications filed after 6/8/95 or before 5/29/00 and all design applications)

Petition Decision Codes

502 - 37 CFR 1.137(b) Revival based on unintentional delay in abandon application

510 - 37 CFR 1.137(b) Revival to accept late payment of issue fee (unintentional)

502

Fee Codes

1453/2453 *$1540/$770* *502/510 Petitions*

Paralegal: SB ( )Dismissed (✓)Granted

MAG:01/07

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)
BCST130645

First named inventor: M.W. Reed

Application No.: 11/880,790 Art Unit: 1634

Filed: July 24, 2007 Examiner:

Title: DNA PURIFICATION AND ANALYSIS ON NANOENGINEERED SURFACES

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 $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of Preliminary Amendment (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.

George E. Renzoni	6-4-08
Signature	Date
George E. Renzoni	37919
Typed or printed name	Registration Number, if applicable
Customer No. 26389	206.695.1755
Address	Telephone Number
Address	

Enclosures: ☑ Fee Payment - Please charge the Petition Fee in the amount of $770 to Deposit Account No. 03-1740.

☑ 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 _____

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	ATTORNEY DOCKET NUMBER
11/880,790	07/24/2007	Michael W. Reed	MP-IP-01.A

CONFIRMATION NO. 8032

FORMALITIES LETTER

25742
JERROLD J. LITZINGER
2134 MADISON ROAD
CINCINNATI, OH 45208

Date Mailed: 09/06/2007

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement claim(s) commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121 is required. Claims must be consecutively numbered and the same claim number cannot be used for more than one claim. See 37 CFR 1.126.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
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For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

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

PART 3 - OFFICE COPY

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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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DIW Jul-08

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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JUL 30 2008

In re Application of	:	
Yoshiaki Shibata et al	:	
Application No. 11/880,793	:	ON PETITION
Filed: October 15, 2007	:	
Atty Docket No. SONY JP 3.0-1412	:	

This is a decision on the petition filed October 15, 2007, requesting that the above-identified application be accorded a filing date of July 24, 2007, with pages 42-48 (claims and abstract)described in the specification as a part of the original disclosure.

The petition is dismissed.

On July 24, 2007, the application was filed.

On August 15, 2007, The Office of Initial Patent Examination (current Office of Patent Application Processing), mailed a Notice of Incomplete Nonprovisional Application stating that a filing date had NOT been accorded to the above application because the specification did not include at least one claim and that an abstract was not provided.

The present petition was filed on October 15, 2007. Petitioner asserts that 48 (forty-eight) pages of the specification was deposited on July 24, 2008, which included the missing pages(42-48) of the claims and abstract. In support petitioner presents a postcard itemizing the filing of, *inter alia*, 48 pages of the specification. The postcard has been annotated, however, to indicate that the Office "did not receive 48(forty-eight) specification pages only 41(forty-one.".

The argument and evidence presented are not persuasive. Petitioner's declaration by Ms. Sharon McGee was made almost

three months after the events in question and recites Ms. McGee's recall of the preparation and filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing of this particular application would stand out in such detail in Ms. McGee's memory.

The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that 41 pages of the specification was filed on July 24, 2007. No 48 pages of the specification was filed on July 24, 2007 to include the claims and abstract.

As stated previously, it is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. In this case, petitioners postcard has been annotated to indicate that only 41 pages of the specification was received and that 48 pages of the specification was not received, which corroborates the official record.

MPEP 503 further states that if the postcard receipt has been **annotated** to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. The showing of record is that the postcard has been annotated to show that only 41 pages of the specification was received and not 48 pages. This annotation further corroborates the showing of the official record, which is that 41, not 48, pages of the specification was received on July 24, 2007. As such, the postcard cannot reasonably be construed as *prima facie* evidence of receipt of 48 pages of the specification to include the claims and abstract.

---

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

As such, the petition is **dismissed**.

The application will be processed using pages 1-41 supplied on July 24, 2007, of the specification and pages 42-48 containing the claims and abstract filed with the submitted petition on October 15, 2007. The other application papers filed on October 15, 2007, will not be used for processing or examination but will be retained in the application file.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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.**

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of October 15, 2007, using the copy of pages 42-48 of the specification supplied on that date with the above petition and the application papers originally filed.

Telephone inquiries 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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WESTFIELD NJ 07090

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FEB 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshiaki Shibata et al	:	
Application No. 11/880,793	:	ON PETITION
Filed: July 24, 2007	:	
Atty Docket No. SONY JP 3.0-1412	:	

This is a decision on the renewed petition filed October 3, 2008, requesting that the above-identified application be accorded a filing date of July 24, 2007, with pages 42-48 (claims and abstract)described in the specification as a part of the original disclosure.

The petition is **dismissed**.

On July 24, 2007, the application was filed.

On August 15, 2007, The Office of Initial Patent Examination (current Office of Patent Application Processing), mailed a Notice of Incomplete Nonprovisional Application stating that a filing date had NOT been accorded to the above application because the specification did not include at least one claim and that an abstract was not provided.

The present petition was filed on October 3, 2008. Petitioner further contends that 48 (forty-eight) pages of the specification was deposited on July 24, 2008, which included the missing pages (42-48) of the claims and abstract. In support petitioner has submitted two(2)additional declarations, (Exhibit A) signed by Elizabeth A. Gagliano, the person who prepared the application papers and (Exhibit B) signed by Dennis M. Smid, the attorney who reviewed the application papers prepared by Ms. Galiano. Petitioner further states that the declaration of Sharon McGee in the previous petition was submitted for purposes of showing that the application was filed in accordance with a well-established

filing procedure. Petitioner also states that, Applicants note that the postcard is referenced in the many cross-checks the firm conducts to be sure that a complete application is submitted.

All of the above is well taken. However, the evidence and arguments presented are still not persuasive.

The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that 41 pages of the specification were filed on July 24, 2007. No 48 pages of the specification were filed on July 24, 2007 to include the claims and abstract.

As stated previously, it is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. In this case, petitioners postcard has been annotated to indicate that only 41 pages of the specification was received and that 48 pages of the specification was not received, which corroborates the official record.

MPEP 503 further states that if the postcard receipt has been **annotated** to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. The showing of record is that the postcard has been annotated to show that only 41 pages of the specification were received and not 48 pages. This annotation further corroborates the showing of the official record, which is that 41, not 48, pages of the specification were received on July 24, 2007. As such, the postcard cannot reasonably be construed as *prima facie*

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[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

evidence of receipt of 48 pages of the specification to include the claims and abstract.

As such, the petition is **dismissed**.

Applicant may file a petition under 37 C.F.R. § 1.57(a) to add subject matter from Japanese application to US.

Applicant's attention is directed to the below:

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

Telephone inquiries 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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AUG 07 2009

OFFICE OF PETITIONS

In re Application of Yoshiaki Shibata et al Application No. 11/880,793 Filed: July 24, 2007 Atty Docket No. SONY JP 3.0-1412	: : : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.57(a), filed June 15, 2009, requesting that the above-identified application be accorded a filing date of July 24, 2007.

The petition is **GRANTED**.

On July 24, 2007, the application was filed.

On August 15, 2007, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Nonprovisional Application, stating that a filing date had NOT included at least one claim and that an abstract was not provided. The notice allowed a non-extendable period for reply of two-months from its mailing date.

The instant petition was filed on June 15, 2009, and is accompanied by an amended application (marked-up version and clean version); a copy of the Japanese priority application, JP 2006-208677; an English language translation of the Japanese priority application; and a marked-up copy of the Japanese priority application identifying where the allegedly omitted portion of the US application can be found.

Petitioner states that "Since the present application contained a claim under §1.55 for priority of a prior-filed foreign application (JP 2006-208677) that was present on the July 24, 2007 filing date, and the allegedly omitted portions of the present application (claims and abstract) are completely contained in the prior-filed foreign application, the claim under §1.55 is also considered an incorporation by reference of the prior-filed foreign application as to the allegedly omitted portion."

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

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

In view thereof, the petition under § 1.57(a) is **GRANTED**. The amendment will be entered in due course.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for according of a filing date of July 24, 2007, using the application papers received in the Office on that date and the amended version of the application to include the claims and abstract submitted with the present petition, and for an indication in the records of the Office that the application contains the required claims and abstract in the above identified application.

The application is being referred to the Office of Patent Application Processing for further processing and the issuance of a corrected filing receipt.

Telephone inquiries specific to this decision should be directed to Karen Creasy at (571)272-3208.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

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MAR 17 2008

In re Application of	:	
RASTEGAR, Maryam	:	
Application No. 11/880,796	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO WITHDRAW
Attorney Docket No. **22865-002**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 01, 2007.

The request is **APPROVED**.

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

The request was signed by Edwin Tarver on behalf of all attorneys of record who are associated with customer No. 50994. 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 Maryam Rastegar 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: **MARYAM RASTEGAR**
11591 DUQUE DRIVE
STUDIO CITY, CA 91604

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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, NW
SANTA MONICA, CA 90405

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of

Michael G. Robinson et al.
Application No. 11/880,828
Filed: July 23, 2007
Attorney Docket No. REAL0146

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 23, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a signed statement by the applicant and a photocopy of applicant's passport. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2872 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/880,881	07/24/2007	Hiroki Shiina	SONYJP 3 . 0-1440	7917

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

EXAMINER
BRAGDON, REGINALD GLENWOOD

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
09/09/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 NFARMER
10/16/2007 HDESTA1 00000019 121095 11880881
03 FC:1111 510.00 CR
05 FC:1201 210.00 CR

FORM PET651G (Rev. 08/07)

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Ware Fressola Van Der Sluys &
Adolphson, LLP
Bradford Green, Building 5
755 Main Street
P.O. Box 224
Monroe, CT 06468

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul J. Plishner	:	
Application No. 11/880,897	:	DECISION ON PETITION
Filed: July 23, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2-603.16-1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 23, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a signed declaration by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3663 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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MAY 25 2010

OFFICE OF PETITIONS

YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of
Nimit H. Maru, et al.
Application No. 11/880,912
Filed: July 24, 2007
Attorney Docket No. 324212029700

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Yahoo C/O MOFO Palo Alto has been revoked by the assignee of the patent application on April 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: YAHOO! INC
701 FIRST AVENUE
SUNNYVALE, CA 94089

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 25 2008

OFFICE OF PETITIONS

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

In re Application of
James N. McCoy, et al
Application No. 11/880,925
Filed: July 25, 2007
Attorney Docket No. 2006EM092/2

DECISION GRANTING PETITION

This is a decision on the petition filed October 9, 2007, requesting that the above-identified application be accorded a filing date of July 25, 2007, instead of the presently accorded date of July 24, 2007.

Petitioners request the later filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on July 25, 2007. In support, petitioners provide a copy of Express Mail label, No. EM 048292435 US, including the sales receipt therefore dated 7/25/07. The same Express Mail receipt number is referred to in the transmittal letter found in the file. It is noted that, while the "date in" on the copy of the Express Mail label includes a hand written date of "7 24 07", it also includes a USPS receipt stamp dated July 25, 2007. A copy of the USPS Track/Confirm record for Express Mail Label No. EM 048292435 US was also provided which corroborates acceptance of the "Express Mail" package in question by the USPS Baytown, TX 77520 on July 25, 2007 at 3:53p.m.

In view of the above, the evidence is convincing that the Express Mail package was entrusted to the USPS on July 25, 2007 and that this application is entitled to a filing date of July 25, 2007.

The petition is **GRANTED**.

The application is being referred to the Office of Patent Application Processing (OPAP) to correct the filing date to **July 25, 2007** and issue a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Honeywell International, Inc.
Patent Services Group
101 Columbia Road
Morristown, NJ 07962

Mail Date: 04/21/2010

Applicant	: Gregory W. Young	: DECISION ON REQUEST FOR
Patent Number	: 7633017	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/880,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **320** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BUCHANAN INGERSOLL & ROONEY, LLP
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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MAY 19 2008

In re Application of	:	
HOUTZ, et al.	:	
Application No. 11/880,955	:	DECISION ON PETITION
Filed: July 24, 2007	:	TO WITHDRAW
Attorney Docket No. **104072.B870296**	:	FROM RECORD
	:	

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 11, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **BUCHANAN INGERSOLL & ROONEY, LLP** has been revoked by the assignee of the patent application on April 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

MaGraves

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CORWELL & MORING, LLP**
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Application of
James T. Sego

Application No. 11880977

Filed: July 26,2007

Attorney Docket No. 70855/08-657

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 22-APR-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAYTOWN TX 77522-2149

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NOV 15 2007

OFFICE OF PETITIONS

In re Application of :
McCoy et al. :
Application Number: 11/880983 : DECISION ON PETITION
Filing Date: 07/25/2007 :
Attorney Docket Number: :
2006EM094/2 :

This is a decision on the petition, filed on October 9, 2007, which is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of July 25, 2007, rather than the presently accorded filing date of July 24, 2007.

Petitioners allege that the application was deposited in Express Mail service on July 25, 2007. In support, petitioners have provided a copy of Express Mail Label No. EM048292427US (the same Express Mail number found on the itemized Provisional Application for Patent Cover Sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "7-24-07" the label also contains an Official USPS postmark dated July 25, 2007. Petitioners have further provided a copy of the USPS Track & Confirm Internet printout for the above-identified Express Mail number, showing that the shipment was accepted by the USPS on July 25, 2007.

In view of the above, the correct date of deposit in Express Mail is July 25, 2007.

In view of the above, the petition is granted. No petition fee is necessary, and the fee paid with the petition will be credited to counsel's deposit account, as authorized in the petition.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to **July 25, 2007.**

Telephone inquiries specific to this matter 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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/880,988	07/24/2007	Kazuyuki Takeda	6639P324	9166

7590 03/11/2010
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER
BARRON JR, GILBERTO

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
03/11/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 03/11/2010 [illegible]
[illegible] -500.00 CP
02 FC:1111

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of	:	
SOLAZZI, Monte J.	:	
Application No. 11/880,997	:	DECISION ON PETITION
Filed: July 25, 2007	:	TO WITHDRAW
Attorney Docket No. **SOLAZZI-4**	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, files were reassigned to the below mentioned firm, 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: **THE PLEVY LAW FIRM**
10 RUTGERS PLACE
TRENTON, NJ 08618

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
Raleigh, NC 27627

In re Application of	:	
Claes Lundstrom	:	
Serial No.: 11/881,022	:	
Filed: July 25, 2007	:	DECISION ON PETITION
For: Sensitivity Lens for Assessing Uncertainty In Image Visualizations of Data Sets, Related Methods and Computer Products	:	*ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.84(a)(2) filed July 25, 2007 requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 3, 4A-4C, 5A, 5B, 9A, 9B, 10A, 10B, 11A, 11B, 12, 13, 14A-14K, 15, 16, 17A-17D, 18A-18E, 19A-19F, 20A-20D be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) 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**.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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5200 BAYWAY DRIVE
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BAYTOWN TX 77522-2149

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of	:	
James N. McCoy et al	:	
Application No. 11/881,063	:	DECISION GRANTING
Filed: July 25, 2007	:	PETITION
Attorney Docket No. 2006EM093/2	:	

This is a decision on the petition filed October 9, 2007, requesting that the above-identified application be accorded a filing date of July 25, 2007, rather than the presently accorded date of July 24, 2007. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests the later filing date on the basis that the application was purportedly deposited with Express Mail Service on July 25, 2007, pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EM048292444US bears a handwritten "date-in" of July 24, 2007, it also includes a USPS receipt date stamp of July 25, 2007. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is July 25, 2007. The same Express Mail label number also appears on the original application transmittal letter of record in the file. As further evidence that this application should be accorded a filing date of July 25, 2007, petitioner has submitted a copy of his USPS sales receipt showing a sales date of July 25, 2007 for the Express Mail package at issue. Additionally, petitioner has submitted a copy of a USPS Track & Confirm Search Results record, which shows that the Express Mail package was accepted on July 25, 2007 at 3:54 at the Baytown, TX USPS.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on July 25, 2007. Accordingly, this application is entitled to a filing date of July 25, 2007, and has been so accorded. In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to <u>July 25, 2007</u> and for issuance of a corrected filing receipt**.

The $130 fee submitted with the petition is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3218. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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496 OLIVE AVE
FREMONT CA 94539

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MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of:	:	
Lutz Rebstock	:	
Application No. 11/881087	:	DECISION ON
Filing or 371(c) Date: 07/25/2007	:	PETITION
Attorney Docket Number: DMS014A	:	

This is a decision on the petition filed January 20, 2008. The petition is properly treated under 37 CFR 1.182. Applicant asserts that the omitted item was in fact deposited in this Office with the nonprovisional application papers.

Background

The application was filed on July 25, 2007. However, on January 2, 2008, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date, and advising applicants that page 1 of the specification appeared to have been omitted from the application. The Notice also stated that the oath or declaration was unexecuted, and required replacement drawings.

The present petition

In response to the Notice, the present petition was filed. Applicant petitions for the date of deposit and contends that the omitted item was in fact deposited in this Office with the nonprovisional application papers. Applicant re-files a copy of the application papers and includes page 1 of the specification, and a copy of the oath or declaration filed with the application papers on July25, 2007. Applicant also files with the present petition replacement drawings.

Review of the Application File

A review of the application file reveals that the application Transmittal form contains a USPTO stamp acknowledging receipt of the items indicated thereon. The application Transmittal asserts that a specification of 30 pages was filed in this Office. A further review of the application paper filed on July 25, 2007 reveal that the oath or declaration was executed by the inventor.

In view of the above, the petition is granted. The Notice, mailed January 2, 2008, is withdrawn to the extent that the Notice indicated that the oath or declaration was unexecuted. The Notice was not incorrect in regards to the specification because it stated that page one (1) of the specification appeared to have been omitted from the application. The Notice was also not incorrect in requiring replacement drawings.

A refund of the petition fee has been scheduled via Treasury Check.

The application will be returned to the Office of Patent Application Processing for further processing with a filing date of July 25, 2007, and an indication that page one (1) of the specification was included with the application papers filed on July 25, 2007, using the copy of page 1 filed with the present petition.

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

Derek L. Woods
Attorney
Office of Petitions

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MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

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AUG 20 2008

In re Application of	:	
Scott F. Acker	:	
Application No. 11/881,122	:	DECISION ON PETITION
Filed: July 25, 2007	:	TO WITHDRAW
Attorney Docket No. 3413.001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Menina Cohen. Menina Cohen has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of :
Earl D. Diem :
Application Number: 11/881123 : ON PETITION
Filing Date: 07/25/2007 :
Attorney Docket Number: DP- :
311274 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on April 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 24, 2008, for failure to timely submit a response to the non-final Office action mailed on January 23, 2008, 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 October 31, 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)).

Petitioner filed an amendment in response to the non-final Office action.

This application is being referred to Technology Center Art Unit 3747 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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JUN 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Weder	:	
Application No. 11/881,164	:	DECISION
Filed: 26 July, 2007	:	ON PETITION
Attorney Docket No.: 8404.368	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 17 September, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §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 C.F.R.§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 37 C.F.R. §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

On deposit on 26 July, 2007, the instant application did not include a claim of priority to:

- Non-Provisional Application No. 10/973,861 (filed 26 October, 2004);
- Non-Provisional Application No.10/970,979 (filed 22 October, 2004), which claimed priority to Provisional Application No. 60/572,149 (filed 18 May, 2004)

Application No. 11/881,164

The petition filed herein on 17 September, 2009, states that it is Petitioner's intent to make those claims, however, the Office record as to Petitioner's petition statement and amendment with regard to a claim for priority as between Non-Provisional Application No. 10/973,861 and Non-Provisional Application 10/970,979.

The petition lacks item (1), above.

Because the record does not support Petitioner's statement of the relationship between Non-Provisional Application No. 10/973,861 and Non-Provisional Application 10/970,979, the amendment fails to comply with the provisions of 37 C.F.R. §1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 C.F.R. §1.78 can be granted, a renewed petition under 37 C.F.R. §1.78 and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) correcting the priority claims made are required.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 3632 for for further processing in due course.

Chris Bottorf
Supervisor
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.
11/881,175	07/26/2007	Michael E. Legatt	2149.1-07	9718

7590 05/11/2010

Robert S. Stoll
Stoll, Stoll & Hoffman
Suite 802
1350 Broadway
New York, NY 10018

EXAMINER
GREECE, JAMES R

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
05/11/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of LEGATT, MICHAEL E. Appl. No.: 11/881,175 Filed: July 26, 2007 For: **METHOD FOR MEASURING VISUAL FUNCTION AND VISUAL ATTENTION IN A CONTINUOUS PERFORMANCE TEST**	**Petition to Suspend Prosecution under *37 CFR 1.103(a)* and Request for Suspension under *and 37 CFR 1.103(e)***

This is a decision on the Petition under 37 CFR 1.103(a), filed on 8/31/2009, requesting suspension of prosecution pending the Supreme Court's decision in the appeal of In re Bilksi. Applicant's request for suspension is based upon a pending court decision and the USPTO does not suspend prosecution merely on the basis of a pending court decision and consequently, applicant's petition pursuant to 37 CFR 1.103(a) is denied.

This is also a decision on applicant's request to the office, filed on 8/31/2009, to issue a suspension of action Sua Sponte pursuant to 37 CFR 1.103(e) pending the Supreme Court's decision in the appeal of In re Bilksi. Applicant's request for suspension is based upon a pending court decision and the USPTO does not suspend prosecution merely on the basis of a pending court decision. Applicant's request failed to show a good and sufficient cause for suspension of action as set forth in MPEP 709 and consequently, applicant's request for a suspension under 37 CFR 1.103(e) is denied.

/Ricky Mack/
Supervisory Patent Examiner
Patent Examining Technology Center 2800
Art Unit 2873

Robert S. Stoll
Stoll, Stoll & Hoffman
Suite 802
1350 Broadway
New York, NY 10018

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of	
Francis Tiong	
Application No. 11/881,189	DECISION ON PETITION
Filed: July 25, 2007	TO WITHDRAW
Attorney Docket No. PA3880US	FROM RECORD

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, 2009.

The request is **APPROVED**.

The request was signed by Deepa Ravindranath on behalf of the practitioners of record associated with Customer No. 22830.

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

All future correspondence will be directed to inventor Francis Tiong at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Francis Tiong
1957 Ivy Way
Fremont, CA 94539

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BRADLEY N. RUBEN, PC
463 FIRST ST, SUITE 5A
HOBOKEN, NJ 07030

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AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of :
KANG, et al. :
Application No. 11/881,214 :
Filed: July 26, 2007 :
Attorney Docket No. **100UM-009A2** :
:

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the driver's license of inventor John J. Voorhees, 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 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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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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OFFICE OF PETITIONS

In re Application of :
Yasuda, et al. :
Application No. 11/881,222 : ON PETITION
Filed: July 26, 2007 :
Attorney Docket No.: 07469/LH :

This is a decision on the "PETITION UNDER 37 CFR 1.57(a)," filed December 12, 2007, requesting amendment of the application to enter Figures 8A and 8B into the record.

The petition is **DISMISSED**.

The application was filed on July 26, 2007. On August 14, 2007, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of a Nonprovisional Application ("Notice"), indicating, *inter alia*, that the application had been accorded a filing date, , but that Figures 8A and 8B, 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 present petition along with an amendment to the specification. The petition seeks to maintain the July 26, 2007 filing date and rely upon the provisions of 37 CFR 1.57(a) to submit the omitted drawing figures.

Applicants are 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).

The instant application was accorded a filing date. Thus, no petition is required. The amendment to include the inadvertently omitted drawing filed December 12, 2007, will be considered by the Examiner in due course.

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 July 26, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Gregory D. Aviza	: DECISION ON REQUEST FOR
Patent Number	: 7607230	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,237	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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
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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS, MN 55458-1336

Mail Date: 04/21/2010

Applicant	: Brian A. Vaartstra	: DECISION ON REQUEST FOR
Patent Number	: 7576378	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,239	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **11** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Axel Fischer	: DECISION ON REQUEST FOR
Patent Number	: 7610967	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Thomson Licensing LLC
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Two Independence Way
PRINCETON NJ 08543-5312

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APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Ali Louzir, et al.	:	
Application No. 11/881,292	:	DECISION ON PETITION
Filed: July 26, 2007	:	
Attorney Docket No. PF06011	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 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, July 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 October 30, 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, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 2821 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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CLEMENTS BERNARD PLLC
1901 ROXBOROUGH ROAD
SUITE 250
CHARLOTTE, NC 28211

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Application of	:	
REEVES, Eric W.	:	
Application No. 11/881,309	:	DECISION ON PETITION
Filed: July 26, 2007	:	TO WITHDRAW
Attorney Docket No. **4664-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 June 10, 2010.

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

A review of the file record indicates that the power of attorney to Clements Bernard PPLC has been revoked by the applicant of the patent application on June 08, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ERIC WILLIAM REEVES**
9421 COPPER HILL LANE
CHARLOTTE NC 28269-0322

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Honeywell International Inc.
Patent Services Department
101 Columbia Road
Morristown NJ 07962

MAILED
JUL 19 2010
OFFICE OF PETITIONS

In re Application of
Frank M. Haran
Application No. 11/881,321
Filed: July 26, 2007
Attorney Docket No. H00121 40-0108

DECISION ON PETITION

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, October 8, 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 January 9, 2010. A Notice of Abandonment was mailed on April 27, 2010.

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 (3).

As to item (3) the statement of unintentional delay is presently not acceptable since the petition was not properly signed. The signature on the petition was not accompanied by a printed name and registration number if necessary.

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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Paul D. Greeley
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

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Commissioner for Patents
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PATENT OFFICE OF DR. CHUNG S. PARK
P. O. BOX 62312
SUNNYVALE CA 94088-2312

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APR 09 2010

OFFICE OF PETITIONS

In re Application of
Hyeung-Yun Kim
Application No. 11/881,328
Filed: July 26, 2007
Attorney Docket No. 1034523-000018

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 6, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner of 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, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

Telephone inquiries concerning this decision should be directed to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT OFFICE OF DR. CHUNG S. PARK
P. O. BOX 62312
SUNNYVALE CA 94088-2312

MAILED

APR 09 2010

OFFICE OF PETITIONS

In re Application of
Hyeung-Yun Kim
Application No. 11/881,328
Filed: July 26, 2007
Attorney Docket No. 1034523-000018

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 March 17, 2010.

The request is **APPROVED**.

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

The request was signed by Chung Park on behalf of all attorneys of record who are associated with customer No. 46513. All attorneys/agents associated with the Customer Number 46513 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 9, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

cc: HYEUNG-YUN KIM
3351 ALMA STREET #305
PALO ALTO, CA 94305

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/881,328	07/26/2007	Hyeung-Yun Kim	1034523-000018

CONFIRMATION NO. 9999

POWER OF ATTORNEY NOTICE

46513
PATENT OFFICE OF DR. CHUNG S. PARK
P. O. BOX 62312
SUNNYVALE, CA 94088-2312

OC000000040981005

Date Mailed: 04/05/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2010.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Yoshihiro Sugii	: DECISION ON REQUEST FOR
Patent Number	: 7588459	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **124** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZUBER & TALLIEU LLP
10866 WILSHIRE BLVD.,
SUITE 300
LOS ANGELES, CA 90024

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Rusty REENS, et al	:	
Application No. 11/881,370	:	DECISION ON PETITION
Filed: July 25, 2007	:	TO WITHDRAW
Attorney Docket No. 0886-1002		FROM RECORD
	:	

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 30, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by Customer Number 73276, as indicated.

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

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

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: RUSTY REENS
5611 FULCHER AVENUE
NORTH HOLLYWOOD, CA 91601

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ZUBER & TAILIEU LLP
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OFFICE OF PETITIONS

In re Application of	:	
Rusty REENS, et al	:	
Application No. 11/881,370	:	DECISION ON PETITION
Filed: July 25, 2007	:	TO WITHDRAW
Attorney Docket No. 0886-1002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 20, 2009.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Spyros J. Lazaris does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The address associated with Customer Number 73276 is the address to be used for correspondence only.

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

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RUSTY REENS
5611 FULCHER AVENUE
NORTH HOLLYWOOD, CA 91601

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Christopher Lane	: DECISION ON REQUEST FOR
Patent Number	: 7639042	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,392	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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SEP 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Chee Yu Ng	:	
Application No. 11/881,399	:	DECISION ON PETITION
Filed: July 26, 2007	:	
Attorney Docket No. 05-SIN-021	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 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 replacement drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance /Notice of Allowability mailed September 15, 2008, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawing submitted on July 7, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MUNCK CARTER, LLP
DANIEL E. VENGLARIK
P.O. BOX 802432
DALLAS, TEXAS 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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STMicroelectronics Inc.
c/o WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
BOSTON MA 02210-2206

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JUL 31 2008

OFFICE OF PETITIONS

In re Application of	:	
STURGES, et al.	:	
Application No. 11/881,400	:	DECISION GRANTING PETITION
Filed: July 26, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S1022.81049US02**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 28, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 28, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2187 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John E. Vick, Jr.
Legal Department, M-495
P.O. Box 1926
Spartanburg SC 29304

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JUN 10 2010

OFFICE OF PETITIONS

In re Application of :
Child, et al. :
Application No. 11/881,439 : ON PETITION
Filed: July 27, 2007 :
Attorney Docket No. 5346A :
For: STATIC DISSIPATIVE TEXTILE

This is a decision on the petition under 37 CFR 1.181, filed April 29, 2010, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed September 17, 2009, which set forth an extendable three (3) month period for reply. A Notice of Abandonment was mailed on March 26, 2010.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely received in the Office on March 16, 2010. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on March 17, 2010. The mailroom date for the payment was March 16, 2010. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the March 26, 2010 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

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.

Accordingly, the application file will be forwarded to Technology Center A.U. 1786 for consideration of the amendment filed on March 16, 2010.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: CLARA COTTRELL
SMITH MOORE LEATHERWOOD LLP
P.O. BOX 21927
GREENSBORO, NC 27420

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FITZPATRICK CELLA (MARVELL)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Li et al.	:	DECISION ON PETITION
Application No. 11/881,457	:	TO WITHDRAW
Filed: July 27, 2007	:	FROM RECORD
Attorney Docket No. MP1226-166170	:	

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 **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 1, 2008 the power of attorney to Fitzpatrick Cella (Marvell) 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: Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suite 1900
1211 S.W. Fifth Avenue
Portland OR 97204

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MARK D. MILLER
KIMBLE, MACMICHAEL & UPTON
5260 NORTH PALM AVENUE
SUITE 221
FRESNO CA 93704

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian W. Deans et al	:	
Application No. 11/881,489	:	DECISION ON PETITION
Filed: July 26, 2007	:	TO WITHDRAW
Attorney Docket No. 8702.18.USU01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2009.

The request is **APPROVED**.

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

The request was signed by Mark D. Miller on behalf of all attorneys of record who are associated with customer No. 25265.

All attorneys/agents associated with the Customer Number 25265 have been withdrawn.

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

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

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BRIAN W. DEANS
50 NICHOLL AVENUE
POINT RICHMOND CA 94801

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NAVAL MEDICAL RESEARCH CENTER
ATTN: (CODE 00L)
503 ROBERT GRANT AVENUE
SILVER SPRING, MD 20910-7500

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Ching et al.	:	
Application No. 11/881,498	:	DECISION ON PETITION
Filed: July 27, 2007	:	
Attorney Docket No. NC 98,790	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 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 Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed October 18, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 19, 2007. A Notice of Abandonment was mailed June 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 the sequence listing, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to the Office of Patent Application Processing for further Examination.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAR 2 6 2010

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

In re Application of	:	
Sanjai SINHA	:	
Application No. 11/881,501	:	DECISION ON PETITION
Filed: July 26, 2007	:	TO WITHDRAW
Attorney Docket No. 068178-5001US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 15, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Maria S. Swiatek does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Sudipta Guha	: DECISION ON REQUEST FOR
Patent Number	: 7664744	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,503	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 05/18/2010

Applicant : Sudipta Guha
Patent Number : 7664744
Issue Date : 02/16/2010
Application No : 11/881,503
Filed : 07/26/2007

: 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 **356** 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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Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Drew E. Wingard	: DECISION ON REQUEST FOR
Patent Number	: 7647441	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2007	: 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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ROSS ARTHUR JOHNSON
682 FISHERMAN'S BEND
MOUNT PLEASANT, SC 29464

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of
Ross Arther Johnson
Application No. 11/881,549
Filed: July 27, 2007
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 Corrected Application Papers (Notice) mailed August 13, 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 14, 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of
Wang, Yu, Tu, Huang, and Shimizu
Application No.: 11/881,563
Filed: July 27, 2007
Attorney Docket No: 252027-1010
For: **HIERARCHICAL BASED ADVERTISING SYSTEM AND BROADCATSING METHOD THEREOF**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed July 27, 2007.

The petition is **GRANTED**.

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

The above-cited application was filed on July 27, 2007, with a declaration executed by all the joint inventors, except inventor Huang. The instant petition was filed on that same date requesting status under 37 CFR 1.47(a).

Petitioner has shown that inventor Huang has constructively refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAYMOND J. WERNER
2056 NW ALOCLEK DRIVE, SUITE 314
HILLSBORO OR 97124

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AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
JOHNSON, Morgan J.	:	
Application No. 11/881,574	:	DECISION ON PETITION
Filed: July 27, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **Octavian.P024**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 27, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the declaration of inventor Morgan T. Johnson, 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 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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MAY 24 2010

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application	:	
M.S. Abdou	:	
Application No. 11/881,584	:	DECISION ON PETITION
Filed: July 27, 2007	:	
Attorney Docket No. 37685-537001US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 14, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 15, 2009. A Notice of Abandonment was mailed on November 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly the amendment and election is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on February 17, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

This application is being referred to Technology Center AU 3733 for appropriate action by the Examiner in the normal course of business on the reply received February 17, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

JOHN J. OSKOREP, ESQ. LLC
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVE.
SUITE 1400
CHICAGO IL 60611

In re Application of	:	MAR 10 2010
BEAUCAGE, JACEY ROBERT et al.	:	**DECISION ON PETITION**
Application No. 11/881,613	:	
Filed: July 27, 2007	:	
Attorney Docket No. HSJ9-2003-0128US2	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment received in the United States Patent and Trademark Office (USPTO) on July 1, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed February 15, 2008, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on June 10, 2008.

Petitioner states that the Applicants responded by timely paying the Issue Fee on May 13, 2008. In support of this assertion the petitioner has submitted documents, which include the following:

- Copy of Form PTOL-85B (FEE(S) TRANSMITTAL) signed by John J. Oskorep
- A fax call report which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed

The petitioner has demonstrated that the Fee Transmittal was timely mailed on May 13, 2008 and is in compliance with 37 CFR 1.10 in that

(1) the Patent and Trademark Office was promptly informed of the previous timely mailing,

(2) included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 8/24/09

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/881680 Patent No.: 7500830 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

Edward Look
SPE

3745
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Patent Office of J. John Shimazaki, PLLC
P. O. Box 650741
Sterling VA 20165

FEB 19 2008

In re Application of: St. Jeor Serial No.: 11/881,682 Filed: July 27, 2007 Title: PRESSURE VACUUM RELEASE HERMETIC VALVE FOR RIGID CONTAINER PACKAGES	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 February 6, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before

the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. Special status based upon infringement is no longer provided for by the policy. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

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

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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OFFICE OF PETITIONS

Patent Office of J. John Shimazaki, PLLC
P. O. Box 650741
Sterling VA 20165

In re Application of :
Bret De St. Jeor :
Application No. 11/881,682 :
Filed: July 27, 2007 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 3, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

It is noted that the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior filed non-provisional application and the reference required by 35 U.S.C. 119(e) and CFR § 1.78(a)(5) to the prior-filed provisional application are set forth in an amendment that is embedded in a document titled "Petition under 37 CFR 1.78 and Amendment to Correct an Unintentionally Delayed Claim for Priority under 35 USC § 120". Because the amendment is not contained on a paper separate from the petition, the amendment does not comply with 37 CFR §§ 1.4 and 1.121 that provide, in pertinent part,

> ***§ 1.4 Nature of correspondence and signature requirements***
> (c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry, or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.
>
> ***§ 1.121 Manner of making amendments in applications***
> (a) *Amendments in applications, other than reissue applications.* Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.

The amendment 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 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.

Petitioner may file a renewed petition under 37 CFR 1.78(a)(3) along with an amendment, contained on a paper separate from the petition, requesting amendment of the priority claim to include the reference to the prior-filed applications.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

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

Anthony Knight
Supervisor
Office of Petitions

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Patent Office of J. John Shimazaki, PLLC
P. O. Box 650741
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In re Application of :
Bret De St. Jeor :
Application No. 11/881,682 : ON PETITION
Filed: July 27, 2007 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 17, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed January 9, 2009. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed January 9, 2009.

The renewed petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT UNDER 37 CFR 1.78(a)(3)

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

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional

application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority 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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit 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 37 CFR 1.78(a)(1) and (a)(2) and 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 nonprovisional application and provisional application, accompanies this decision on petition.

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

This matter is being referred to Technology Center 3700, Art Unit 3781 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/881,682	07/27/2007	3781	565		15	3

CONFIRMATION NO. 1955

CORRECTED FILING RECEIPT

Patent Office of J. John Shimazaki, PLLC
P. O. Box 650741
Sterling, VA 20165

OC000000034019955

Date Mailed: 01/12/2009

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

Applicant(s)

Bret de Jeor, Oakdale, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/795,475 03/08/2004 ABN
which claims benefit of 60/452,499 03/07/2003

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 11/881,682**

Projected Publication Date: 01/29/2009

Non-Publication Request: No

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

Title

Pressure vacuum release hermetic valve for rigid container packages

Preliminary Class

220

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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Peter G. Carroll
MEDLEN & CARROLL, LLP
Suite 350
101 Howard Street
San Francisco CA 94105

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of:	:	
Zeikus et al.	:	DECISION DISMISSING
Application No.: 11/881690	:	PETITION UNDER
Filing or 371(c) Date: 07/27/2007	:	37 CFR 1.47(a)
Attorney Docket Number: MSU-14842	:	

This Decision is in response to the "Petition to Accept Application Under [37] C.F.R. § 1.47(a)," filed April 28, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on July 27, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on September 25, 2007, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition wherein Applicant asserts that the Declaration and Assignment were sent to the nonsigning inventor on multiple occasions. In support of the petition, Applicant submits the Declaration of Tamara L. Hemingway wherein Ms. Hemingway states that she submitted the Declaration to the nonsigning inventor on six separate occasions, and that during the forsst week of April she learned that the nonsigning inventor is out of the country and will not return to the United States until May 2008. (The petition was filed April 28, 2008).

Applicable Law, Rules and MPEP

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

As to item (1), the MPEP provides:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

Analysis

Applicant has not presented evidence that demonstrates that it is clear that the inventor understands exactly what it is that he is being asked to sign. Applicant is cautioned that receipt of an application via email transmission must be demonstrated by Applicant before a petition may be granted. While receipt of an email may be confirmed by the sender, receipt of an email attachment may not be confirmed by the sender. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor. Moreover, and as provided in the MPEP, "[t]he fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47." MPEP 409.03(d). (Emphasis supplied).

The MPEP further provides

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

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

MPEP 409.03(d).

In this instance, Applicant asserts that a copy of the Declaration and Assignment were sent to the nonsigning inventor via email, however, there is no assertion that the application was sent to or received by the inventor. Here, the nonsigning inventor has not acknowledged receipt of the application papers, nor has he refused to join in the application. Applicant is advised to mail the application (specification, claims and drawings), to the last known address of the inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Conclusion

Applicant must present a copy of the application to the nonsigning inventor before a refusal to join in the application may be alleged.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of:	:	
Zeikus et al.	:	DECISION DISMISSING
Application No.: 11/881690	:	PETITION UNDER
Filing or 371(c) Date: 07/27/2007	:	37 CFR 1.47(a)
Attorney Docket Number: MSU-14842	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR §1.47(a), filed August 25, 2008, noting the joinder of the previously non-signing inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being referred to Technology Center Art Unit 1652 for examination in the normal course of business.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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San Francisco CA 94105

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
J. Gregory Zeikus et al.	:	
Application No. 11/881,690	:	DECISION ON PETITION
Filed: July 27, 2007	:	
Attorney Docket No. MSU-14842	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 11, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 11, 2009. Accordingly, the date of abandonment of this application is March 12, 2010. A Notice of Abandonment was mailed on March 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

This application is being referred to the Office of Data Management for further processing into a patent. They can be reached at 571-272-4000.

/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

G. F. Gallinger
7420 Milner Dr.
Colorado Springs CO 80920

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OCT 1 1 2007

OFFICE OF PETITIONS

In re Application of	
Audrey J. Vernon	
Application No. 11/881,713	DECISION ON PETITION
Filed: July 30, 2007	TO MAKE SPECIAL UNDER
Attorney Docket No. PANTCUFF.ATH	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 the applicant's driver's license proving that he/she is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3728 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAR 03 2010

OFFICE OF PETITIONS

G. F. Gallinger
7420 Milner Dr.
Colorado Springs CO 80920

In re Application of	:	
Matthew J. Vernon et al.	:	
Application No. 11/881,713	:	DECISION ON
Filed: July 30, 2007	:	PETITION TO WITHDRAW
Attorney Docket No. PANTCUFF.ATH	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ForSight VISION 3, INC,. & Townsend and Townsend
and Crew LLP (Joint Customer Number)
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: J. Christopher Marmo	: DECISION ON REQUEST FOR
Patent Number	: 7585075	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Valerie Niddam-Hildesheim	: DECISION ON REQUEST FOR
Patent Number	: 7605290	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2007	: 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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RECEIVED

DEC 23 2008

OFFICE OF PETITIONS

ATTN: TRAVIS DOOD
GAVRILOVICH, DODD & LINDSEY, LLP
2490 HEYNEMAN HOLLOW
FALLBROOK CA 92028

In re Application of	:	
Mehdi Asghari et al	:	
Application No. 11/881,745	:	ON PETITION
Filed: July 27, 2007	:	
Attorney Docket No. L2860	:	

This is a decision on the petition, filed November 12, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on November 12, 2008. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

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
www.uspto.gov

MAILED

FEB 19 2009

OFFICE OF PETITIONS

ATTN: TRAVIS DODD
GAVRILOVICH, DODD & LINDSEY, LLP
2490 HEYNEMAN HOLLOW
FALLBROOK CA 92028

In re Application of	:	
Mehdi Asghari et al	:	
Application No. 11/881,745	:	DECISION ON PETITION
Filed: July 27, 2007	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. LT2860	:	

This is a decision on the renewed petition, filed January 13, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 16, 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 May 21, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center Art Unit 2874.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Matthew W. Peters et al.	:	
Application No. 11/881,748	:	DECISION ON PETITION
Filed: July 27, 2007	:	TO WITHDRAW
Attorney Docket No. 74495.00201.UTL	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Paul, Hastings, Janofsky & Walker, LLP, has been revoked by the assignee of the patent application on June 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Cooley, Godward, Kronish, LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Jones Day
222 East 41st Street
New York NY 10017-6702

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Brines et al.	:	
Application No. 11/881,759	:	DECISION ON PETITION
Filed: July 26, 2007	:	
Attorney Docket No. 10165-055-999	:	

This is a decision on the petition under 37 CFR 1.182, filed, July 29, 2008, to change the name of inventor "Carla Cerami" to –Carla Cerami Hand --.

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.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Any questions concerning this matter may be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology center 1647 for examination in due course.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/881,759	07/26/2007	1647	10250	10165-055-999	9	1

CONFIRMATION NO. 2534

CORRECTED FILING RECEIPT

Jones Day
222 East 41st Street
New York, NY 10017-6702

OC000000034960471

Date Mailed: 03/12/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Brines, Woodbridge, CT;
Anthony Cerami, Somers, NY;
Carla Cerami Hand, Chapel Hill, NC;

Assignment For Published Patent Application

Kenneth S. Warren Laboratories, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/717,053 11/21/2000 PAT 7,309,687
which is a DIV of 09/547,220 04/11/2000 ABN
which claims benefit of 60/129,131 04/13/1999

Foreign Applications

If Required, Foreign Filing License Granted: 09/14/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/881,759**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS FOR TREATMENT OR PREVENTION OF DISEASES OF THE CENTRAL NERVOUS SYSTEM OR PERIPHERAL NERVOUS SYSTEM BY PERIPHERALLY ADMINISTERED ERYTHROPOIETIN

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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RASHAD NA'IM SCARSBOROUGH
APT 2C
208 GRAY AVENUE
DURHAM, NC 27701

MAILED

JUN 03 2010

OFFICE OF PETITIONS

In re Application of
Rashad Na'im Scarborough
Application No. 11/881,764
Filed: July 30, 2007
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition, filed December 18, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On August 20, 2009, the Office mailed a Notice of Non-Compliant Amendment (Notice), which set a one (1) month or thirty (30) days which ever is longer, shortened statutory period to reply. Although the Office did not inform the petitioner that the amendment was still improper, the application became abandonment by operation of law on September 21, 2009.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the August 20, 2009 Notice. Specifically, petitioner states the Notice was never received.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

A further review of the record shows that the Office received a reply to the Notice on September 8, 2009 which was within the time frame allotted for the reply to be timely. Accordingly, since the reply received September 8, 2009 is considered to be timely filed, the application is not abandoned.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3611 for appropriate action in the normal course of business on the reply received September 9, 2009.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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LAW OFFICE OF JOHN C. MCMAHON
P.O. BOX 30069
KANSAS CITY, MO 64112

Mail Date: 04/21/2010

Applicant	: Steve D. Shivvers	: DECISION ON REQUEST FOR
Patent Number	: 7574816	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **7** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/881,787	07/30/2007	Jack V. Miller		2636

7590 09/26/2007

Jack V. Miller
20915 Sussex Hwy.
Seaford, DE 19973

EXAMINER

ART UNIT	PAPER NUMBER
2875	

MAIL DATE	DELIVERY MODE
09/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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

Jack V. Miller
20195 Sussex Hwy.
Seaford, DE 19973

SEP 19 2007

In re Application of: Jack V. Miller Serial No.: 11/881,787 Filed: July 30, 2007 Title: ENERGY SAVING INTEGRATED LIGHTING AND HVAC SYSTEM	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the petition filed on 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 **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 1) was not filed using the USPTO's electronic filing system (EFS), or EFS-web (item 2 above), and 2) was not complete under 37 CFR 1.51 and in condition for examination at the time of filing (item 3 above). On August 29, 2007, the Office of Initial Patent Examination mailed to applicant a "Notice to File Corrected Application Papers" requiring a proper abstract of the technical disclosure and additional fees to cover the multiple dependent claims. The mailing of the "Notice to File Corrected Application Papers" is evidence that the application was not complete and in condition for examination at the time of its filing.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Information about the current accelerated examination procedure may be obtained from the USPTO website at http://www.uspto.gov/web/patents/accelerated/

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1638.

Edward Westin

Edward Westin, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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In re Application of
Niddam-Hildesheim, et al.
Application No. 11/881,799
Filed: July 27, 2007
Attorney Docket No. 01662/04503

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d) first filed on March 20, 2008.

The petition is **dismissed.**

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be July 26, 2007, not the currently accorded date of July 27, 2007. In support thereof, petitioner filed an a copy of Express Mail label, tracking number EM0950398305US with the date-in as July 27, 2007, but a date stamp of July 26, 2007 on the reserves side of the mail receipt.

Section 1.10(d) of the Title 37 of the Code of Federal Regulations indicates if a showing is made that the "date-in" on the Express Mail label was incorrectly entered or omitted by the United States Postal Service, a petition to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the United States Postal Service, provided that:

(1) the petition is filed promptly after the person becomes aware that the Office has accorded or will accord a filing date based upon an incorrect entry by the USPS;

(2) the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail; and

(3) the petition includes a showing which established, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within

one business day of the deposit of the correspondence in the "Express Mail Post office to Addressee" service of the USPS.

The instant petition does not satisfy the requirements of item (2) above.

Section 513 of the Manual of Patent Examining Procedure, provides in pertinent part, that:

> Effective December 2, 1996, 37 CFR 1.10(b) no longer requires a certificate of mailing by "Express Mail" or that the "Express Mail" mailing label number be placed on the correspondence prior to mailing. Correspondence deposited with the USPS on or after December 2, 1996, and which is actually received by the Office will not be denied a filing date as of the "date-in" appearing on the "Express Mail" mailing label because the number of the "Express Mail" mailing label was not placed on the correspondence prior to the original mailing. However, if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) **>, (d), (e), (g) or (h)<, even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) * 1.10(e)>, 1.10(g), or 1.10(h)<. To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.
>
> Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir. 1996); *Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); *Vincent v. Mossinghoff*, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); *Gustafson v. Strange*, 227 USPQ 174 (Comm'r Pat. 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

Relative to item (2) above, the Express Mail receipt number was not found on ant of the original application papers. The Express Mail receipt number is usually found on the application transmittal sheet. A review of the application transmittal sheet filed July 27, 2007, did not reveal the Express Mail receipt number. As indicated by Section 513 of the MPEP cited above, petitioner cannot be denied a filing date for failing to place the Express Mail receipt number on the papers filed, but petitioner is not

able to secure relief pursuant to 37 CFR 1.10 when there is a discrepancy with the filing date accorded. The petition under 37 CFR 1.10(d) is dismissed accordingly.

It is noted that a request is made to correct domestic priority information. This is a request that is properly entertained by the Office of Patent Application Processing. Petitioner may wish to make this request under a separate cover.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571)273-8300
Attn: Office of Petitions

The application will be directed to the Office of Patent Application Processing for further review with a filing date of July 27, 2007. The Office of Patent Application Processing is alerted to the request to correct the domestic priority which was made a part of the petition under 37 CFR 1.10(d).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Niddam-Hildesheim, et al. :
Application No. 11/881,799 :
Filed: July 26, 2007 :
Attorney Docket No. 01662/04503 :

This is a decision on the petition filed October 16, 2008, under 37 CFR 1.10(d) to accord the application a filing date of July 26, 2007.

The petition is **granted**.

The record reflects that the subject application arrived at the Patent and Trademark Office in an Express Mail envelope with Express Mail label EM0950398305US showing a date-in of July 27, 2007, but a sate-stamp of July 26, 2007, on the reverse side of the mail receipt. The instant renewed petition asserts that the application should have been accorded a filing date of July 26, 2007, as that was date the application was deposited with the Express Mail service.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

> Any person filing correspondence under this section that was received by the Office and delivered by the AExpress Mail Post Office to Addressee@ service of the USPS who can show that the Adate-in@ on the AExpress Mail@ mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded or will accord, a filing date based upon an incorrect entry by USPS;
>
> (2) The number of the AExpress Mail@ mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by AExpress Mail@; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the AExpress Mail Post Office to Addressee@ service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit within one business day of the deposit of the correspondence in the AExpress Mail Post Office to Addressee@ service of the USPS.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of July 26, 2007.

The application file is being forwarded to the Office of Patent Application Processing where the application will be accorded a filing date of July 26, 2007, and a corrected filing receipt mailed.

The Office of Patent Application Processing should note the request to correct the domestic priority claim filed October 16, 2008, which requests that priority to provisional application 60/833,616 be noted on the filing receipt. It is noted that the priority claim filed July 26, 2007, indicated that priority to provisional application 60/833,616, but was apparently inadvertently noted entered by the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD, SUITE 200
CUPERTINO, CA 95014

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OFFICE OF PETITIONS

In re Application of	:	
GUZIK, Nahum	:	
Application No. 11/881,815	:	DECISION ON PETITION
Filed: July 27, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **GUZIP005**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 15, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the statement and drivers license of inventor Nahum Guzik, 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 at 571-272-4000.

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

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CHARLOTTE NC 28202

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OFFICE OF PETITIONS

In re Application of
Kreitz, Holden, Gunter, Boydston, Fullerton, Prim, and Wiles
Application No.: 11/881,868
Filed: July 30, 2007
Attorney Docket No:30219.034
For: BOTTLED WATER DISTRIBUTION METHOD AND RETURN APPARATUS

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed January 14, 2008.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on July 30, 2007, without a proper oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on August 14, 2007, requiring a properly executed oath or declaration and surcharge. The notice allowed an extendable period for reply of two months from its mailing date. The instant petition was filed responsively on January 14, 2008, with a request for an extension of time within the third month.

Petitioner has shown that inventor Wiles cannot be located join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The fee for the instant petition is $200.00. Deposit account 18-1215 will be charged an additional $70.00, accordingly.

This application will be forwarded 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

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OFFICE OF PETITIONS

In re Application of	:	
David C. Orlowski, et al.	:	
Application No. 11/881,881	:	DECISION ON PETITION
Filed: July 30, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. USPA-0231	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 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 3682 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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Law Office of Jay R. Hamilton, PLC.
Registered U.S. Patent Attorney
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Attorney at Law Licensed to Practice in Iowa and Illinois
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Tel (563)441-0207 • Fax (563)823-4637
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David C. Orlowski et al.	)	Examiner: N/A
Serial No.: 11/881,881	)	
Filed: 07/30/2007	)	Art Unit: 3745
For: Bearing Monitoring Method	)	
Docket No.: USPA-0231	)	

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office central facsimile number (571) 273-8300 on January 22, 2008.

Signature

Jay R. Hamilton - Registered U.S. Patent Attorney #50,644
Typed or printed name of person signing certificate of mailing.

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

1. Transmittal Form
2. Correspondence & "COPY" of Granted Decision on Petition to Make Special

Total Pages Sent by Fax 4 (including this page)
APPLICANT REQUESTS CONFIRMATION OF RECOEPT VIA AUTO-REPLY FAX TO 1-563-823-4637

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 4

Application Number	11/881,881
Filing Date	07/30/2007
First Named Inventor	David C. Orlowski et
Art Unit	3745
Examiner Name	N/A
Attorney Docket Number	USPA-0231

ENCLOSURES *(Check all that apply)*

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to a Technology Center (TC)
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):

Remarks

Correspondence & Copy of GRANTED "Decision on Petition to Make Special"

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Law Office of Jay R. Hamilton, PLC
Signature	
Date	01/22/2008

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: _____

Typed or printed	Jay R. Hamilton		
Signature		Date	01/22/2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, Washington, DC 20231.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: David C. Orlowski et al.	)	
Serial No.: 11/881,881	)	
Attorney Docket No.: USPA-0231	)	
Filed: 07/30/2007	)	PETITION TO EXPEDITE PATENT APPLICAITON
For: Bearing Monitoring Method	)	
Art Unit: 3745	)	**GRANTED**
Examiner: N/A	)	

Dear Sir:

The Purpose of this letter is to confirm with you that the Office of Petitions has granted applicant's petition to expedite his patent application filed under 37 CFR 1.102 (c) 1). See enclosed notice. My client and I are available as needed to assist the assigned examiner with any issues or questions he or she may have upon initiation of the expedited examination process.

Respectfully submitted,

David C. Orlowski et al.

Date: 1/22/2008

By _____
Jay R. Hamilton
Reg. No. 50,644

Law Office of Jay R. Hamilton, PLC
U.S. Patent Attorney
33 W. 3rd Street, Suite 120
Davenport, Iowa 52801
Tel (563) 441-0207
Fax (563) 823-4637

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of David C. Orlowski, et al. Application No. 11/881,881 Filed: July 30, 2007 Attorney Docket No. USPA-0231	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 November 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 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 3682 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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30 Rockefeller Plaza
New York, NY 10112-3800

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OFFICE OF PETITIONS

In re Application of	:	
Kan Li	:	
Application No. 11/881,923	:	DECISION ON PETITION
Filed: July 30, 2007	:	TO WITHDRAW
Attorney Docket No. 02666.001225	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 31, 2008.

The request is **moot because a revocation of power of attorney has been previously filed**.

A review of the file record indicates that the power of attorney to Michael K. O'Neill and all attorneys/agents associated with customer number 47215 have been revoked by the assignee of the patent application on November 1, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suite 1900
1211 S.W. Fifth Avenue
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/881,923	07/30/2007	Kan Li	

CONFIRMATION NO. 2586

POA ACCEPTANCE LETTER

65589
SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVENUE
PORTLAND, OR 97204

OC000000033707782

Date Mailed: 12/19/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/01/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Doczy, Harris, and Homer	:	DECISION REFUSING STATUS
Application No. 11/881,937	:	UNDER 37 CFR 1.47(a)
Filed: 07/30/2007	:	
Attorney Docket No. 200700964-1	:	

This is in response to the petition under 37 CFR 1.47(a), filed December 17, 2007 (certificate of mailing dated December 13, 2007).[1]

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiency noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is necessary for filing a request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicants lack item (1) and (2) as set forth above.

As to item (1), it appears that applicants did not present the non-signing inventor with a complete copy of the application papers, including the specification, claims, and drawings. In the Declarations of Facts, Hope C. Shimabuku and James L. Baudino stated they mailed the

[1] Applicants obtained an extension of time for response within the second month. Therefore, the petition is timely filed.

Declaration and Power of Attorney and Assignment for the present application to the inventor for his signature; however, he had not signed the documents as of the filing of the petition.

Unless applicants presented the non-signing inventor with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he "has reviewed and understands the contents of the application," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the non-signing inventor refused to sign the declaration. See MPEP 409.03(d).

To demonstrate that the inventor refused to join in the application, applicants must show that a complete copy of the present nonprovisional application, including the specification, claims and drawings, was mailed to the non-signing inventor, personally or through his designated representative, and that he did not respond or refused the request that he sign the declaration. The circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the event.

As to item (2), the declaration is defective because it does not identify the mailing address of the non-singing inventor. Each inventor's mailing address is required to be supplied on the oath or declaration. 37 CFR 1.63(c). A mailing address is the address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See MPEP 605.03.

Further correspondence with respect to this matter should be addressed as follows and to the attention of Christina Tartera Donnell, Senior Petitions Attorney:

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 EFS-Web.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JUN 17 2008

In re Application of	:	
Doczy, Harris, and Homer	:	DECISION ACCORDING STATUS
Application No. 11/881,937	:	UNDER 37 CFR 1.47(a)
Filed: 07/30/2007	:	
Attorney Docket No. 200700964-1	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 9, 2008. Applicants obtained a request for an extension of time for response within the first month.

The petition is granted.

On renewed petition, applicants showed that the non-signing inventor could not be located to join in the above-identified application after being presented with a complete copy of the application papers and declaration for his signature. Additionally, the Office notes that the declaration submitted on December 17, 2007, is not complete because it is missing the mailing address of the non-signing inventor. However, the unexecuted declaration submitted on July 30, 2007, identifies mailing address of the non-signing inventor. "Where neither the original oath or declaration, nor the substitute oath or declaration is complete in itself, but each oath or declaration names all of the inventors and the two taken together give all the required data, no further oath or declaration is needed." MPEP 602.02

The application papers have been reviewed and are found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in 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.

Inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jonathan R. Harris
15727 Tylermont Drive
Cypress, Texas 77429

In re Application of	:	
Doczy, Harris, and Homer	:	
Application No. 11/881,937	:	LETTER
Filed: 07/30/2007	:	
Title: CARD-BASED POWER SYSTEM FOR	:	
AN ELECTRONIC DEVICE	:	

Dear Mr. Harris:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to the Certification Division at (571) 272-3150 or (800) 972-6382 (outside the Washington, DC area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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1077 Northern Boulevard
Roslyn NY 11576

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of :
Akihiro Matsunaga : DECISION ON PETITION
Application No. 11/881,960 :
Deposited: July 30, 2007 :
Atty Docket No. MATSUNAGA-7 :

This is a decision on the "Petition under 37 CFR 1.17(f)" filed September 6, 2007, requesting that the above-referenced application be accorded a filing date of July 30, 2007.

Application papers in the above-identified application were deposited on July 30, 2007. However, on August 27, 2007, the Office mailed applicant 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. This Notice set a two-month period for reply.

In response, applicant filed the instant petition stating that the above-identified application was filed as a divisional application of Ser. No. 11/394,046. Petitioner further states that as applicant requested transfer of the drawings from the prior application, the divisional application is entitled to a filing date of July 30, 2007. No copy of the drawings is submitted on petition.

Petitioner's argument has been considered, but not found persuasive. 35 U.S.C. 111(a)(4) provides, in pertinent part, that:

> The filing date of an application shall be the date on

> which the specification and any required drawing are received in the Patent and Trademark Office.

Moreover, as stated in MPEP 608.02(i), transfer of drawings from a first pending application to another will be made only upon the granting of a petition filed under 37 CFR 1.182 which must set forth a hardship situation requiring such transfer of drawings.

In this instance, no drawings were among the papers received in the above-identified application on filing. Additionally, no petition was filed requesting or warranting transfer of drawings from the prior application. Thus, no drawings were present in this application by virtue of the request to transfer drawings. Accordingly, it is concluded that petitioner has not shown that this application is entitled to a filing date of July 30, 2007.

However, a review of the application as filed reveals that it included a claim for priority to prior Japanese patent application JP 2005-108769 and an explicit incorporation by reference of the prior-filed Japanese application. Moreover, a copy of the Japanese application in Japanese was filed on August 27, 2007. It is unclear whether the Japanese application contains the drawings required in this application.

Nonetheless, with respect to the prior-filed foreign application, petitioner is reminded that on September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 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 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;

(i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

(b) Except as provided in paragraph (a) of this section, an incorporation by reference must be set forth in the specification and must:

(1) Express a clear intent to incorporate by reference by using the root words "incorporat(e)" and "reference" (e.g., "incorporate by reference");

and

(2) Clearly identify the referenced patent, application, or publication.

However, as stated in MPEP 201.06(c),

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.

The instant petition also does not satisfy the requirements for according a filing date pursuant to 37 CFR 1.57 or 37 CFR 1.182.

In view thereof, the petition is **DISMISSED**.

Any renewed petition not filed within two months of the mailing date of this decision may be dismissed as untimely. This two-month period is not extendable. See 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

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1077 Northern Boulevard
Roslyn NY 11576

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DEC 14 2007
OFFICE OF PETITIONS

In re Application of :
Akihiro Matsunaga : DECISION ON PETITION
Application No. 11/881,960 :
Deposited: July 30, 2007 :
Atty Docket No. MATSUNAGA-7 :

This is a decision on the "PETITION UNDER 37 CFR 1.182" filed October 22, 2007, requesting reconsideration of decision dismissing the petition filed September 6, 2007 to accord the above-identified application a filing date of July 30, 2007.

Application papers in the above-identified application were deposited on July 30, 2007. In response to a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION mailed August 27, 2007, notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings, applicants timely filed the initial petition. The petition did not include a copy of the omitted drawings.

By decision mailed October 15, 2007, the petition was dismissed as applicant admitted that the application as filed did not include drawings. Rather, the application requested that drawings be transferred from the prior application. The Office does not transfer drawings from a first pending application to another absent the granting of a petition filed under 37 CFR 1.182 setting forth a hardship situation requiring such transfer of drawings. No such petition was filed and no such hardship has been shown to have existed. Nonetheless, petitioner was reminded that the application as filed included a claim for priority to prior Japanese patent application JP 2005-108769 and an explicit incorporation by reference of the prior-filed

Japanese application. Thus, if the Japanese application contained the drawings required in this application, applicants may be able to file a grantable petition under 37 CFR 1.57 or 37 CFR 1.182.

In response, applicants filed the instant petition under 37 CFR 1.182, along with six sheets of drawings and an amendment to the specification. However, no 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, was submitted. Further, petitioner continued to request transfer of the drawings.

Preliminarily, it is stated that for the reasons stated in the decision of October 15, 2007, the drawings will not be transferred. Petitioner still has not established a hardship situation warranting transfer.

Presumably, based on the explicit incorporation by reference of the prior Japanese application, petitioner has submitted the drawings. However, petitioner has not satisfied the requirements of 37 CFR 1.182. As stated in the dismissal decision of October 15, 2007, citing MPEP 201.06(c),

> 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.

The application as filed includes in the specification an explicit incorporation by reference statement. However, petitioner has not met the requirements of 37 CFR 1.182 set forth above. First, petitioner has not submitted the amendment required to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment was submitted but it was not directed to amending the application to include the drawings explicitly incorporated by reference. Moreover, a review of the drawings as submitted reveals that they are not a copy of the drawings contained in the Japanese application. Specifically, the drawings contain legends in the English language. The explicit incorporation by reference statement is proper for entry of the drawings as filed in the Japanese application. Accordingly, on renewed petition, applicants should submit:

- an amendment requesting that the omitted material contained in the prior application be entered,
- the omitted material in the form of a copy of the drawings as contained in the prior Japanese application,
- if such is desired, an amendment requesting entry of the drawings as amended to include the legends in the English language, and
- a statement that the English language translation is accurate.

In view thereof, the petition is **DISMISSED**.

Any renewed petition not filed within two months of the mailing date of this decision may be dismissed as untimely. This two-month period is not extendable. See 37 CFR 1.181(f).

It is further noted that the amendment filed October 22, 2007 contains a claim for priority to application No. 11/394,048 and appears to first incorporate by reference the prior application. Petitioner is reminded that 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 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 Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

Finally, applicants are reminded that a claim under 1.78 in an application transmittal in an application filed after September 21, 2004 is not effective. Pursuant to 37 CFR 1.78(a)(2)(iii), the required reference must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. See also MPEP §201.11. Accordingly, petitioner should consider whether the filing of a petition under 37 CFR 1.78(a)(3) is necessary with respect to the claim for priority to application No. 11/394,048.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Akihiro MATSUNAGA-7 (DIV)

SERIAL NO.: 11/881,960 FILED: July 30, 2007

TITLE: CONNECTOR HAVING A ROTARY ENGAGING MEMBER

PETITION UNDER 37 CFR 1.182

Fax: 571 273-8300
Attn.: Office of Petitions
ATTN.: NANCY JOHNSON

In response to the Decision on Petition dated October 15, 2007 and further to the telephone conference of October 22, this is a request for reconsideration and a petition under 37 CFR 1.182. Attached hereto is an amendment to the specification referring to the parent application and a drawing of Figs. 1 to 11.

In compliance with MPEP 608.02(i) mentioned in the decision, applicant petitions under 37 CFR 1.182 to transfer the drawings from the parent application in order to assure the filing date of July 30, 2007.

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Paper No.

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Roslyn NY 11576

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Akihiro Matsunaga : DECISION ON PETITION
Application No. 11/881,960 :
Deposited: July 30, 2007 :
Atty Docket No. MATSUNAGA-7 :

This is a decision on the "PETITION UNDER 37 CFR 1.57" filed December 31, 2007, requesting reconsideration of decision on petition dated December 14, 2007 dismissing the renewed petition filed October 22, 2007 to accord the above-identified application a filing date of July 30, 2007. This petition is properly treated as a renewed PETITION UNDER 37 CFR 1.182.

BACKGROUND

Application papers in the above-identified application were deposited on July 30, 2007. In response to a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION mailed August 27, 2007, notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings, applicants timely filed the initial petition. The petition did not include a copy of the omitted drawings.

By decision mailed October 15, 2007, the petition was dismissed as applicant admitted that the application as filed did not include drawings. Further, petitioner's request to transfer drawings from a prior application as petitioner had not shown a hardship situation requiring such transfer of drawings, pursuant to 37 CFR 1.182. Nonetheless, petitioner was reminded that the

application as filed included a claim for priority to prior Japanese patent application JP 2005-108769 and an explicit incorporation by reference of the prior-filed Japanese application. Thus, if the Japanese application contained the drawings required in this application, applicants may be able to file a grantable petition under 37 CFR 1.57 or 37 CFR 1.182.

By decision mailed December 14, 2007, a renewed petition under 37 CFR 1.182 was dismissed. Petitioner had submitted the six sheets of drawings and an amendment to the specification. However, petitioner did not submit the amendment required pursuant to 37 CFR 1.182 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. Further, petitioner continued to request transfer of the drawings.

OPINION

Now, petitioner submits a petition under 37 CFR 1.57, requesting reconsideration.

Preliminarily, it is stated that for the reasons stated in the decision of October 15, 2007, the drawings will not be transferred. Petitioner still has not established a hardship situation warranting transfer.

Nonetheless, petitioner has now satisfied the requirements of 37 CFR 1.182. The application as filed included in the specification an explicit incorporation by reference statement. Petitioner has submitted an amendment directed to amending the application to include the drawings explicitly incorporated by reference. Petitioner has submitted a copy of the drawings contained in the Japanese application, along with the translations of the drawings containing legends in the English language and a statement that this is an accurate English translation of the Japanese legend.

In view thereof, the petition is **GRANTED**.

Given the incorporation by reference of the drawings, the application is entitled to a filing date of July 30, 2007.

CONCLUSION

With respect to any unintentionally delayed claim for priority to application Serial No. 11/394,048, a separate petition must be filed for such consideration and must address the requirements of 37 CFR 1.78(a)(3). The requirements include submission of the required surcharge.

This application is being forwarded to the Office of Patent Application Processing (formerly known as the Office of Initial Patent Examination) for:

- **according of a filing date of July 30, 2007**, using the application papers received in the Office on that date and in consideration of the 6 sheets of drawings from a prior Japanese application incorporated by reference on filing of this application.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from the Office of Patent Application Processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: B. Jack Rote	: DECISION ON REQUEST FOR
Patent Number	: 7628601	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/881,970	: 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 **155** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
11/881,995	07/30/2007	Seiji Nakao	17267/014001	2625

7590 01/26/2010
OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

EXAMINER
NGUYEN, HOA T

ART UNIT	PAPER NUMBER
2627	

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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Adalberto ANDINO JR, et al. :
Application No. 11/882,007 : DECISION ON PETITION TO
Filed: July 30, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **570862000110** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 13, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. .

The request cannot be approved because the inventor/assignee address information was omitted from the request.

There is an outstanding non-final Office action mailed June 9, 2009 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Katsumi Kishino	: DECISION ON REQUEST FOR
Patent Number	: 7668217	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,055	: 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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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

In re Application of	:	
James T. Dalton, Duane D.	:	
Miller, and Igor Rakov	:	
Application No. 11/882,073	:	
Filed: July 30, 2007	:	DECISION ON PETITION
Attorney Docket No. P-5211-US1	:	PURSUANT TO 37 C.F.R.
Title: METHYLENE-BRIDGED	:	§ 1.47(A)
SELECTIVE ANDROGEN RECEPTOR	:	
MODULATORS AND METHODS OF USE	:	
THEREOF	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed March 17, 2008.

This petition is **DISMISSED**.

On July 30, 2007, the application was filed, identifying James T. Dalton, Duane D. Miller, and Igor Rakov as joint inventors. The application was deposited without an executed oath or declaration. On September 18, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the filing fee, the search fee, the examination fee, and

fees that are associated with the filing of excess claims. This Notice set a two-month period for reply.

Along with this petition, Petitioner has submitted a declaration which has been executed by each of the joint inventors save Mr. Rakov, along with the surcharge associated with the late submission of the same, a statement of facts, the petition fee, the last known address of the non-signing inventor, the filing fee, the search fee, the examination fee, a portion of the fees that are associated with the filing of excess claims[1], and a four-month extension of time to make timely this response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

The petition has met requirements (1) - (3) and (5) of Rule 1.47(a).

Regarding the fourth requirement or Rule 1.47(a), Petitioner has asserted that the non-signing inventor "cannot be found or reached[2]," and has included evidence that a third party mailed a copy of the assignment and the declaration to the last known address of the non-signing inventor. The USPS returned this mailing as undeliverable. Moreover, this third party has

1 $2520 has been charged to Petitioner's Deposit Account, as authorized in the petition.
2 Petition, page 1.

indicated that the e-mail address and mobile telephone number that were believed to be associated with this individual do not appear to be valid.

Petitioner has asserted that the inventor "cannot be found or reached." Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As Petitioner has set forth that the non-signing joint inventor cannot be found or reached, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* There is no indication that a search was performed for Mr. Rakov. There is no indication that the Rule 47 applicant attempted to verify the address of the non-signing inventor or to determine his forwarding address, and to send the complete application papers to that address for consideration by the inventor[3].

Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or the Internet. If it is then averred that such attempts failed, then applicant will have provided the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[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

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3 See MPEP § 409.03(d).
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

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/
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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Paper No.

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SEP 26 2008
OFFICE OF PETITIONS

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

In re Application of	:	
James T. Dalton, Duane D.	:	
Miller, and Igor Rakov	:	
Application No. 11/882,073	:	
Filed: July 30, 2007	:	DECISION ON RENEWED
Attorney Docket No. P-5211-US1	:	PETITION PURSUANT TO
Title: METHYLENE-BRIDGED	:	37 C.F.R. § 1.47(A)
SELECTIVE ANDROGEN RECEPTOR	:	
MODULATORS AND METHODS OF USE	:	
THEREOF	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed September 4, 2008.

The fee that is associated with the filing of a petition for a two-month extension of time will be charged to Petitioner's Deposit Account in due course, as authorized in the petition.

Receipt of the petition fee is acknowledged.

This renewed petition is **GRANTED**.

On July 30, 2007, the application was filed, identifying James T. Dalton, Duane D. Miller, and Igor Rakov as joint inventors. The application was deposited without an executed oath or declaration. On September 18, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted"

(Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the filing fee, the search fee, the examination fee, and fees that are associated with the filing of excess claims. This Notice set a two-month period for reply.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on March 17, 2008 along with a declaration that had been executed by each of the joint inventors save Mr. Rakov, the surcharge associated with the late submission of the same, a statement of facts, the last known address of the non-signing inventor, the filing fee, the search fee, the examination fee, a portion of the fees that are associated with the filing of excess claims, and a four-month extension of time so as to make timely this response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
    a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
    b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

The original petition was dismissed in a decision that was mailed on May 27, 2008. The decision indicated that Petitioner had met requirements (1) - (3) and (5) of Rule 1.47(a).

With this renewed petition, Petitioner has established that diligent efforts have been made to locate the non-signing inventor.

As such, Petitioner has met each of the five requirements of 37 C.F.R. § 1.47(a). Therefore, the petition is **GRANTED** and this application is hereby accorded Rule § 1.47(a) status.

As provided in 37 C.F.R. 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address which appears 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.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/25/2010

Applicant	: Shyh-Jong Chung	: DECISION ON REQUEST FOR
Patent Number	: 7623083	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/882,121	: 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 **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MALUR & BRUNDIDGE, P.C.
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SEP 12 2008

OFFICE OF PETITIONS

In re Application of :
Koji Nagata : DECISION ON PETITION
Application No. 11/882,159 :
Filed: July 31, 2007 :
Atty Docket No. G&P-5041-03 :

This is in response to the PETITION FOR DATE OF DEPOSIT-NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION UNDER 37 CFR §1.53(b), filed May 5, 2008, which is properly considered as a petition under § 1.53(e)(2). Petitioner requests that the Office accord the above-identified application a filing date of July 31, 2007, with Fig. 6 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on July 31, 2007. However, on April 22, 2008, the Office mailed applicants a NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had been accorded a filing date; however, Fig. 6 appeared to have been omitted from the application.

In response, applicant filed the instant petition (and petition fee). Applicant submits that the present application included Fig. 6 when deposited in the United States Patent and Trademark Office. In support thereof, applicant submitted a copy of their date-stamped postcard receipt. In addition, applicant stated that the figure was incorporated by reference on filing of the application. Accompanying the petition is a copy of the drawing figures, including fig. 6, as applicant maintains they were originally filed.

Consideration of the claim of incorporation by reference of fig. 6 is unnecessary. A postcard receipt, which itemizes and

properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of applicant's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on July 31, 2007; 2) it specifically identifies the items being filed, including "FORMAL DRAWINGS (11 Sheets, Fig. 1-11)" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, applicant has shown that the items denoted, including the 11 sheets of drawings, were filed on July 31, 2007.

The drawing sheets already considered received in the Office on July 31, 2007, were reviewed along with fig. 6 submitted on petition. These papers together constitute the items described on the receipt as "FORMAL DRAWINGS (11 Sheets, Fig. 1-11)." It is concluded that applicant has shown that fig. 6 was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, although authorized, no petition fee is being charged to Deposit Account No. 50-1417.

The application is being forwarded to the Office of Patent Application Processing for further processing **with a filing date of July 31, 2007** using the application papers received in the Office and presently accorded that date; and the drawing sheet containing Fig. 6 re-supplied on petition filed May 5, 2008; and indication in Office records that 11 sheets of drawings were present in the application on filing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from the Office of Patent Application Processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/882,207	07/31/2007	Yusuke Ogata	131700	3230

25944 7590 11/18/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
LORENCE, RICHARD M

ART UNIT	PAPER NUMBER
3655	

MAIL DATE	DELIVERY MODE
11/18/2008	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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NOV 17 2008

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of	:	DECISION ON REQUEST TO
Yusuke Ogata et al.	:	PARTICIPATE IN PATENT
Application No. 11/882,207	:	PROSECUTION HIGHWAY
Filed: July 31, 2007	:	PROGRAM AND PETITION
For: HYDRAULIC PRESSURE CONTROL	:	TO MAKE SPECIAL UNDER
APPARATUS FOR A VEHICULAR	:	37 CFR 1.102(d)
POWER TRANSMITTING DEVICE		

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 **DISMSSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

(3) all 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);

The claims of the US application do not sufficiently correspond or have been amended to sufficiently correspond to the allowable/patentable claims in the JPO application. There are no claims in the JPO application which correspond to U.S. application claims 5-8. The PPH program guidelines require that all claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the JPO application. Since there is no JPO claim that corresponds to US claims 5-8, the PPH petition fails meet the guidelines of the PPH program.

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 inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 11/17/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/882,207	07/31/2007	Yusuke Ogata	131700	3230

25944 7590 12/22/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
LORENCE, RICHARD M

ART UNIT	PAPER NUMBER
3655	

MAIL DATE	DELIVERY MODE
12/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 23 2008

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Yusuke Ogata et al. Application No. 11/882,207 Filed: July 31, 2007 For: HYDRAULIC PRESSURE CONTROL APPARATUS FOR A VEHICULAR POWER TRANSMITTING DEVICE	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed December 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).

A first request to participated in the PPH program and petition to make special was filed on November 14, 2008. However, that request and petition was dismissed on November 17, 2008 because all the claims in the U.S. application did not sufficiently correspond or were amended to correspond to the allowable/patentable claims in the JPO application.

In light of the preliminary amendment filed December 18, 2008, the renewed request and petition now comply with the above requirements. Accordingly, the above identified application has been accorded "special" status.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 12/19/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/882,219	07/31/2007	Youe-Kong Shue	067345-5001	3294

9629 7590 03/08/2010
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER
GOON, SCARLETT Y

ART UNIT	PAPER NUMBER
1623	

MAIL DATE	DELIVERY MODE
03/08/2010	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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MAR 0 8 2010

Dean L. Fanelli
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of: SHUE et al.
Serial No.: 11/882,219

Filed: July 31, 2007
Docket: 067345-5001
Title: **18-MEMBERED MACROCYCLES AND ANALOGS THEREOF**

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 28, 2008 to make the above-identified application special under 37 C.F.R. § 1.102(d).

MPEP §708.02 states:

> Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age.
>
> Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below.
>
> 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).

While the instant application was filed before August 25, 2006 the instant petition was not filed until June 23, 2009 and thus the last paragraph cited above controls. The instant petition does not meet the requirements set forth in the above.

The petition to make the application special is **DENIED**.

Any inquiry regarding this decision should be directed to Michael P. Woodward, Quality Assurance Specialist, at (571) 272-8373.

/MP Woodward/
Michael P. Woodward, Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/882,226	07/31/2007	Yusuke Ogata	131599	3371

25944 7590 11/18/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
LORENCE, RICHARD M

ART UNIT	PAPER NUMBER
3655	

MAIL DATE	DELIVERY MODE
11/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NOV 17 2008

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Yusuke Ogata et al. Application No. 11/882,226 Filed: July 31, 2007 For: HYDRAULIC PRESSURE CONTROL APPARATUS FOR A VEHICULAR POWER TRANSMITTING DEVICE	: : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed January 7, 2008, to make the above-identified application special.

The request and petition are **DISMSSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

(3) all 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);

The claims of the US application do not sufficiently correspond or have been amended to sufficiently correspond to the allowable/patentable claims in the JPO application. For example, claim 1 of the U.S. application recites "a lock up control valve"; no such valve is recited in corresponding JPO claim. Although JPO claim 1 recites "wherein circulation paths of the hydraulic fluid are switched", there is no requirement that "a lock up control valve" performs the switching or that such a valve be part of the claimed hydraulic pressure control apparatus.

Furthermore, there is no claim in the JPO application which correspond to U.S. application claim 3. The PPH program guidelines require that all claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the JPO application. Since there is no JPO claim that corresponds to US claim 3, the PPH petition fails meet the guidelines of the PPH program.

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 inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 11/14/08

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/882,226	07/31/2007	Yusuke Ogata	131599.	3371

25944 7590 12/22/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
LORENCE, RICHARD M

ART UNIT	PAPER NUMBER
3655	

MAIL DATE	DELIVERY MODE
12/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

DEC 23 2008

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of	:	DECISION ON REQUEST TO
Yusuke Ogata et al.	:	PARTICIPATE IN PATENT
Application No. 11/882,226	:	PROSECUTION HIGHWAY
Filed: July 31, 2007	:	PROGRAM AND PETITION
For: HYDRAULIC PRESSURE CONTROL	:	TO MAKE SPECIAL UNDER
APPARATUS FOR A VEHICULAR	:	37 CFR 1.102(d)
POWER TRANSMITTING DEVICE		

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 December 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).

A first request to participated in the PPH program and petition to make special was filed on November 13, 2008. However, that request and petition was dismissed on November 17, 2008 because all the claims in the U.S. application did not sufficiently correspond or were amended to sufficiently correspond to the allowable/patentable claims in the JPO application.

In light of the preliminary amendment filed December 18, 2008, the renewed request and petition now comply with the above requirements. Accordingly, the above identified application has been accorded "special" status.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 12/19/08

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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Bassam D. Jalbout	: DECISION ON REQUEST FOR
Patent Number	: 7638950	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,322	: 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 **183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Bassam D. Jalbout	: DECISION ON REQUEST FOR
Patent Number	: 7598683	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,323	: 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 **199** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 06 2009

Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

In re application of Naoki Nishimura Application No. 11/882,395 Filed: August 1, 2007 For: APPARATUS FOR FACILITATING RELEASE OF THE PARKING LOCK	:	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 30, 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 June 30, 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: 7/5/09

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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
YU, CHENG-SHENG	:	
Application No.: 11/882413	:	DECISION ON
Filing or 371(c) Date: August 1, 2007	:	PETITION
Attorney Docket Number: **2561-0066**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed March 23, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed December 3, 2009.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1499.

Kendrick Sprull
Application Assistance Unit
Office of Data Management

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
MENARD, Stephane et al.	:	
Application No. 11/882,457	:	DECISION ON PETITION
Filed: August 01, 2007	:	TO WITHDRAW
Attorney Docket No. **1912-0356PUS1**	:	FROM RECORD

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 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. 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 Lewis on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Stephane Menard 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: **STEPHANE MENARD**
C/O SIMPLER NETWORKS INC.
1840 TRANSCANDA
SUITE 100
DORVAL QUEBEC H9P 1H7
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
MENARD, Stephane et al.	:	
Application No. 11/882,460	:	DECISION ON PETITION
Filed: August 01, 2007	:	TO WITHDRAW
Attorney Docket No. **1912-0357PUS1**	:	FROM RECORD
	:	

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 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. 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 C. Lewis on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **STEPHANE MENARD**
119 CHATEAU-KIRKLAND
KIRKLAND, QUEBEC H9J 3Z9
CANADA

cc: **STEPHANE MENARD**
c/o SIMPLER NETWORKS INC.
1840 TRANSCANADA
SUITE 100
DORVAL, QUEBEC H9P 1H7
CANADA

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

Mail Date: 04/20/2010

Applicant	: Gye-Jong Lim	: DECISION ON REQUEST FOR
Patent Number	: 7634369	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,464	: 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 **7** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
11/882,474	08/02/2007	Michael G. Tal	TAL-001-DIV	4789

21884 7590 06/22/2010
WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

EXAMINER
CRONIN, ASHLEY L

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
06/22/2010	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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WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA VA 22314

In re Application of:
TAL, MICHAEL G.
Serial No.: 11/882,474
Filed: Aug. 2, 2007
Docket: TAL-001-DIV
Title: VASCULAR ABLATION APPARATUS AND METHOD

Decision on Petition to Re-Start Time Period for Response

This is a decision on the petition filed June 21, 2010 requesting remailing the Office action mailed on April 28, 2010 and restart the period to respond due to non-receipt of the Office action. This petition is being considered pursuant to 37 CFR § 1.181. No fee is required.

The petition is Granted.

On June 21, 2010, the current petition was filed. In support of the request, petitioner stated that the Office action of April 28, 2010 was never received at the correspondence address of record. The address on the Office action of April 28, 2010 was correct as indicated in PALM. The petition also included a copy of the printout of the case summary for its docketing department showing the non-receipt of the Office action mailed on April 28, 2010 in accordance with MPEP § 710.06.

As the petitioner has provided convincing evidence that the Office action was not received. The outstanding Office action will be mailed and the period to respond will be restarted. A new Notice of Allowance will be re-mailed in due course.

Petition Granted.

Angela D. Sykes

Angela Sykes, Director
Technology Center 3700

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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Shinohara et al.	:	
Application Number: 11/882482	:	DECISION ON PETITION
Filing Date: 08/02/2007	:	
Attorney Docket Number: Q103094	:	

This is a decision on the petition filed on October 11, 2007, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of August 2, 2007, with one (1) sheet of drawings containing Figure 3 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on August 2, 2007.

Accordingly, on August 30, 2007, the Office of Patent Application Processing mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of August 2, 2007, but that Figure 3 described in the specification appeared to have been omitted.

In response, on October 11, 2007, the present petition and a copy of, *inter alia*, one (1) sheet of drawings containing Figure 3 were filed. Petitioners argue that Figure 3 was filed with the other application papers on August 2, 2007, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' hand-stamped receipt was supplied with the present petition. The itemized receipt shows an "Office date" stamp of August 2, 2007, and identifies the application by the invention title, inventor's names, attorney docket number, and acknowledges receipt of, *inter alia*, 19 sheets of drawings. Petitioners request that the application, including one (1) sheet of drawings containing Figure 3, be accorded a filing date of August 2, 2007.

A review of the record reveals that 18 sheets of drawings were received on August 2, 2007. No Figure 3 is located among the

drawing figures received on that date. However, the evidence is convincing that the application papers deposited on August 2, 2007, included one (1) sheet of drawings containing Figure 3, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 3, is entitled to a filing date of August 2, 2007.

The "Notice" mailed on August 30, 2007, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account, as the petition was necessitated by Office error.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 3 supplied on October 11, 2007, as a part of the original disclosure. The copies of the other application papers supplied with the petition will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 2, 2007, using the application papers filed on that date and the copy of one (1) sheet of drawings containing Figure 3 supplied with the present petition, and for an indication in Office records that 19 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Noya et al.	:	
Application Number: 11/882497	:	DECISION ON
Filing or 371(c) Date: 08/02/2007	:	PETITION
Attorney Docket Number: 043888-0602	:	

This is a decision in response to the petition to withdraw holding of abandonment under 37 CFR 1.53(f) or (g) and Response t Notice of Missing Parts of Application, filed June 9, 2008. The correspondence is properly treated under 37 CFR 1.181. See, MPEP 711.03.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing parts of Nonprovisional Application ("Notice"), mailed August 23, 2007. The Notice required Applicant to file an English language translation of the prior filed provisional application (for which the present application claims priority), along with a statement that the translation is accurate, and in the present application, the Notice required Applicant to file a confirmation that the translation and statement were filed. The Notice set a two (2) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 24, 2008. A Notice of Abandonment was mailed May 15, 2008.

The present petition

Applicant files the present petition and asserts that a timely response to the Notice was filed on October 23, 2007. In support of this assertion, d a petition to withdraw the holding of abandonment on August 15, 2007 wherein Applicant asserted, in relevant part, that he did not receive the Notice. The petition was dismissed in a Decision mailed October 15, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.181[1].

A review of the application files

[1] Office records reveal that Applicant filed an oath/declaration with the application on November 15, 2005. As such, the late filing oath or declaration surcharge was charged in error and a refund of the fee has been scheduled via Treasury Check.

1. 60/839,433

A review of provisional application 60/839,433, for which the present application claims benefit, reveals that an English language translation of the application, along with a statement that the translation was accurate, was filed on July 27, 2007.

Applicant also files a copy of his return receipt postcard from application 60/893,433, acknowledging receipt by this Office of a Declaration (Verification of English Translation) by this Office on July 27, 2007 in application no. 60/893,433.

2. The present application

A review of the present application reveals that Applicant filed a response to the Notice on October 23, 2007, which included a statement confirming that the English language translation of provisional application 60/839,433, was filed on July 20, 2007[2].

Conclusion

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to the Office of Patent Application Processing for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[2] The actual filing date of the English language translation filed in application no. 60/893,433 is July 27, 2007.

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P.O. Box 1450
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OFFICE OF PETITIONS

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of Rong-Wen CHANG

Application No. 10/882,559
Filed: June 30, 2004
Attorney Docket No. DEVM0009

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 09, 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 January 07, 2005. 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.

Application No. 10/882,559

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 June 03, 2010 accompanies this decision on petition.

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.

This application is being forwarded to Technology Center Art Unit 2195 for examination in due course.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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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
10/882,559	06/30/2004	Rong-Wen Chang	DEVM0009

CONFIRMATION NO. 3400

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

NONPUBLICATION RESCISSION LETTER

OC000000040303130

Date Mailed: 02/26/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/03/2010.

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".

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Hayato Kikuchi	: DECISION ON REQUEST FOR
Patent Number	: 7667636	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,608	: 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.

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BC

November 4, 2009

In re application of	:	DECISION ON REQUEST TO
Noriyasu Fukushima et al.	:	PARTICIPATE IN PATENT
Serial No. 11/882,729	:	PROSECUTION HIGHWAY
Filed: August 03, 2007	:	PROGRAM AND
For: METHOD OF FABRICATING	:	PETITION TO MAKE SPECIAL
PHOTOMASK BLANK	:	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) to make the above-identified application special filed April 17, 2009.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:

a. Documentation of prior office action:
   i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
   ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
   iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
   Further, if a copy of the documents from (i) or (ii) is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

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.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 05/17/2010

Applicant	: David Michael McNamara	: DECISION ON REQUEST FOR
Patent Number	: 7651337	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/882,752	: 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 **36** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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OFFICE OF PETITIONS

In re Application of	:	
Shun-Min Chen, et al.	:	
Application No. 11/882,762	:	NOTICE
Filed: August 6, 2007	:	
Attorney Docket No. CHEN4162/JJC/JS	:	

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 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 Terri Johnson at (571) 272-2991.

for

Chris Bottorff
Petitions Examiner
Office of Petitions

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Shun-Min Chen	: DECISION ON REQUEST FOR
Patent Number	: 7600810	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,762	: 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of
Kang
Application No. 11/882,842
Filed: 6 August, 2007
Attorney Docket No. Q102877

DECISION ON PETITION

This is a decision on the petition filed on 22 August, 2007, and considered under 37 C.F.R. §1.53.

The Office regrets the delay in addressing the matter—the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

The instant application was deposited on 6 August, 2007.

On 17 August, 2007, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Application (the Notice) and indicated therein that the application had not been accorded a filing date because it had been deposited without drawing as required under 35 U.S.C. §113 (first sentence).

Thus, the application had not been accorded a filing date

OIPE indicated that Petitioner might:

- contend via petition that the application was complete upon deposit, and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the complete specification (description, claims and abstract; or

- submit the complete specification (description, claims and abstract) and accept the date of that submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 22 August, 2007, Petitioner submitted the instant petition, including therewith, *inter alia*, what is averred to be true copies of 11 sheets of drawings/figures present on deposit on 6 August, 2007, along with a copy of Petitioner's date-stamped ("AUG 06 2007") receipt card.

ANALYSIS

A search of the official file reveals that:

- on 6 August, 2007, Petitioner deposited the instant application;

- the Office record appears earlier to have reflected that the drawings/figures were missing upon deposit;

- the date-stamped receipt card evidences—in pertinent part—the following:

***

Pgs. Spec.Abst: 25/1 #Claims: 15
 # Dwg. Sheets: 11 (Emphasis supplied)

***

Because Petitioner's receipt card adequately itemized the contents of the application as to the elements deposited, it is concluded that the application, including twenty-five pages of specification (description, claims and abstract) and eleven sheets of drawings, was deposited with the Office on 6 August, 2007, and eleven sheets of drawings subsequently were misplaced in the Office.

Accordingly, the application, including twenty-five pages of specification (description, claims and abstract) and eleven sheets of drawings, is entitled to a filing date of 6 August, 2007.

The Notice mailed on 17 August, 2007, was sent in error and is hereby **vacated** to the extent that it stated that the application was filed without eleven sheets of drawings).

CONCLUSION

The petition is **granted**; the petition fee waived and will be refunded to Deposit Account 19-4880—should Petitioner later find that a charge was not refunded, Petitioner should send a refund request to Office of Finance with a copy of this decision.

This application is released to OPAP for further processing with a filing date of 6 August, 2007, for the entire application including twenty-five (25) pages of specification (description, claims and abstract) and eleven (11) sheets of drawings, with pages 1 – 25 of the specification (description, claims), and 11 sheets of drawings described in the specification, using:

- **25 pages of specification (description and claims) deposited on 6 August, 2007; and**
- **eleven (11) sheets of drawings deposited on 22 August, 2007; and further**
-

with direction to OPAP to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 6 August, 2007, and reflecting therein that 25 pages of specification (description and claims) and 11sheets of drawings were present on filing.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.2 provide:1

§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.
11/882,868	08/06/2007	Sookwan Jang	P58282	6572

7590 06/29/2010
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HORNER, JONATHAN R

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
06/29/2010	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

Adjustment date: 06/28/2010 [illegible]
06/07/2007 [illegible] 11882868
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:
AYALA, Stephane, et al.	:
Application No. 11/882,870	: DECISION ON PETITION
Filed: 06 August 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1032326-000429	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 29 April 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application 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 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 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 presently fails to comply with item (1). In particular, the reference states that application number 09/545,288 is a continuation of international application number PCT/FR98/02147.

MPEP 201.11, Section III. C. states in relevant part,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

A review of application number 09/545,288 reveals that a proper reference to international application number PCT/FR98/02147 is lacking. As set forth in the decision in 09/545,288 mailed July 21, 2009, the reference added by the April 29, 2009 amendment to the specification is unacceptable because it improperly incorporates by reference application number PCT/FR98/02147. Although applicant filed an Application Data Sheet (ADS) that also contains the desired reference, the ADS lacks the required signature. See 37 CFR 1.33(b) and the most recent sample ADS (http://www.uspto.gov/ebc/portal/efs/sb0014_fill.pdf) which contains an appropriate signature block. Because application 09/545,288 lacks a proper reference to application PCT/FR98/02147, the amendment to the present specification cannot be accepted at the present time. Moreover, the ADS filed with the present petition lacks the required signature.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, the appropriate reference must be added to intermediate application 09/545,288.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop PCT
Randolph Building

401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

- 2 FEB 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:
AYALA, Stephane, et al.	:
Application No. 11/882,870	: DECISION ON PETITION
Filed: 06 August 2007	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1032326-000429	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 04 November 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed 29 April 2009.

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 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.

Applicant previously satisfied items (2) and (3). The petition now complies with item (1) in that intermediate application 09/545,288 has been amended to include a proper reference to international application number PCT/FR98/02147.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, is attached to this decision.

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292. 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 2887 for appropriate action on the amendment filed 29 April 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 USC 365(c) and 35 U.S.C. § 120 to the prior-filed international application.

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: corrected Filing Receipt

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SEP 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Stephanie AYALA et al.	:	
Application No. 11/882,871	:	DECISION ON PETITION
Filed: August 06, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1032326-000385	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 29, 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 **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2821 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/882,871	08/06/2007	2821	1440	1032326-000385	10	3

CONFIRMATION NO. 6720

CORRECTED FILING RECEIPT

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000038013951*

Date Mailed: 09/29/2009

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)

Stephane Ayala, Marseille, FRANCE;
Gerard Bourneix, Greasque, FRANCE;
Christine Beausoleil, Marseille, FRANCE;
David Martin, La Ciotat, FRANCE;
Laurent Oddou, La Ciotat, FRANCE;
Philippe Patrice, Allauch, FRANCE;
Michael Zafrany, Marseille, FRANCE;

Assignment For Published Patent Application

GEMPLUS

Power of Attorney: The patent practitioners associated with Customer Number 21839

Domestic Priority data as claimed by applicant

This application is a DIV of 09/545,288 04/07/2000
which is a CON of PCT/FR98/02147 10/08/1998

Foreign Applications

FRANCE 97/12530 10/08/1997

If Required, Foreign Filing License Granted: 08/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/882,871**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD FOR MAKING SMART CARDS CAPABLE OF OPERATING WITH AND WITHOUT CONTACT

Preliminary Class

343

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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NOV 06 2008

OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Lena Svendsen et al	:	DECISION GRANTING STATUS
Application No. 11/882,893	:	UNDER 37 CFR 1.47(b)
Filed: August 6, 2007	:	
Attorney Docket No. 6513-1001-2	:	

This is in response to the petition under 37 CFR 1.47(b), filed February 22, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(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 inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Masaaki Kaizuka	: DECISION ON REQUEST FOR
Patent Number	: 7622883	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/882,934	: 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 **281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED
MAR 15 2010

In re Application of	:	
Per Kristian EIDE	:	
Application No. 11/882,994	:	NOTICE
Filed: August 8, 2007	:	
Attorney Docket No. 1617-0104PUS4	:	

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 **NOT ACCEPTED**.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The fee submitted December 17, 2009, is acknowledged, however, itemization is required to include the basic, search and examination fees, as indicated above.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
JUN 18 2010
OFFICE OF PETITIONS

In re Application of	:	
Per Kristian EIDE	:	
Application No. 11/882,994	:	NOTICE
Filed: August 8, 2007	:	
Attorney Docket No. 1617-0104PUS4	:	

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

2 9 JAN 2008

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of	:	
JAIKARAN, Emma et al.	:	
Application No.: 11/883,010	:	
PCT No.: PCT/GB2006/000240	:	DECISION
Int. Filing Date: 24 January 2006	:	
Priority Date: 24 January 2005	:	ON PETITION UNDER
Docket No.: 6947-19190-01	:	
For: INHIBITION OF ISLET AMYLOID POLYPEPTIDE (IAPP) AGGREGATION FOR THE TREATMENT OF TYPE 2 DIABETES	:	37 CFR 1.10(c)

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.10(c) to Correct Filing Date," filed in the United States Patent and Trademark Office on 29 August 2007.

BACKGROUND

On 24 January 2006, applicant filed international application PCT/GB2006/000240, claiming a priority date of 24 January 2005. A copy of the international application was transmitted to the Office by the International Bureau on 27 July 2006. The thirty month period for paying the basic national fee expired at midnight on 24 July 2007.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a receipt date of 25 July 2007.

On 29 August 2007, applicant filed this petition to correct the receipt date.

DISCUSSION

In this petition, applicant requests that the receipt date of application No. 11/883,010 be amended to 24 July 2007. The "date in" field on the Express Mail label reads "07-24-07". The requirements for a petition to correct a receipt date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. The petition was filed promptly. The Express Mail mailing label number was listed on the correspondence. Applicant has furnished a copy of the Express Mail mailing label, bearing the USPS postmark and a letter from USPS indicating that the postmark is the "date in".

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the receipt date of the filing to 24 July 2007 is **GRANTED**.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for further action consistent with this decision. The application has a 35 USC. 371(c)(1), (c)(2) and (c)(4) date of 24 July 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

2 1 APR 2009

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COMMISSIONER FOR PATENTS
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KENYON & KENYON LLP
One Broadway
New York, New York 10004

In re Application of	DECISION ON
KORTHAUER et al	
Application No.: 11/883,091	
PCT No.: PCT/EP06/050752	PETITION UNDER
Int. Filing Date: 08 February 2006	
Priority Date: 17 February 2005	
Attorney's Docket No.: 10191/4877	37 CFR 1.181
For: METHOD AND DEVICE FOR ...	
A MOTOR VEHICLE	

This Decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT... MPEP 711.03(c)I," filed on 15 December 2008, requesting the acceptance of the executed declaration form as timely filed since the Notification of Missing Requirements was not received.

BACKGROUND

On 25 July 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No oath or declaration of the inventors accompanied the transmittal letter.

On 04 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905)... stating that the declaration is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and must be submitted within two months from the date of mailing this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 15 December 2008, applicants filed the instant petition accompanied by, inter alia, an executed declaration, a petition from Gerard A. Messina, and copy of the file-jacket data sheet, a printout of all incoming mails received from the USPTO for the period 02/04/2008- 02/18/2008, and the docket due-date entries for April 4, 2008.

DISCUSSION

MPEP section 711.03(c) establishes the requirement to show nonreceipt of an Office action. It states that:

"The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

A review of petition reveals that applicants have complied with the requirements set forth in section 711.03(c), which requires a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed for a reply date of two(2) months from the date of mailing of the Notice of Missing Requirements.

Applicants have submitted a copy of the docket report showing all replies docketed for a date of April 4, 2008 two months from the mail date of the nonreceived Office action that was mailed by the USPTO on 04 February 2008, and a list showing the all incoming mails received from the USPTO between 02/04/2008 – 02/18/2008.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 29 October 2008 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **15 December 2008**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Hecker et al.	:	DECISION ON PETITION
Application No. 11/883,099	:	TO WITHDRAW
Filed: July 26, 2007	:	FROM RECORD
Attorney Docket No. 2005P00957WOUS	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 15, 2010 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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08 AUG 2007

G. BRIAN PINGEL, BROWN, WINICK, GRAVES,
GROSS, BASKERVILLE AND SCHOENEBAUM, P.L.C.
REGENCY WEST 5
4500 WESTOWN PARKWAY, SUITE 277
WEST DES MOINES, IA 50266

In re Application of FRIESTH	:	
U.S. Application No.: 11/883,108	:	
PCT Application No.: PCT/US2005/046424	:	DECISION
Int. Filing Date: 22 December 2005	:	
Priority Date Claimed: 27 December 2004	:	
Attorney Docket No.: 15986/0005	:	
For: MULTI-TURBINE AIRFLOW AMPLIFYING GENERATOR	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 July 2007.

BACKGROUND

On 22 December 2005, applicant filed international application PCT/US2005/046424, which claimed priority of an earlier United States application filed 27 December 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 06 July 2006. The thirty-month period for paying the basic national fee in the United States expired on 27 June 2007.

International application PCT/US2005/046424 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 July 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 December 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 July 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,108	07/26/2007	Kevin Friesth	15986/0005	9426

7590 07/03/2008
G. BRIAN PINGEL, BROWN, WINICK, GRAVES,
GROSS, BASKERVILLE AND SCHOENEBAUM, P.L.C.
REGENCY WEST 5
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EXAMINER
VERDIER, CHRISTOPHER M

ART UNIT	PAPER NUMBER
3745	

MAIL DATE	DELIVERY MODE
07/03/2008	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.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

2 2 MAY 2008

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FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of: HOLAND, Wolfram, et al. U.S. Application No.: 11/883,114 PCT No.: PCT/EP2006/050389 International Filing Date: 19 January 2006 Priority Date: 27 January 2005 Atty Docket No.: FI-92PCT For: COATED DENTAL POWDER	DECISION ON REFUND REQUEST

This decision is issued in response to the "Request For Refund" filed 27 March 2008. No petition fee is required.

BACKGROUND

On 19 January 2006, applicants filed international application PCT/EP2006/050389. The international application claimed a priority date of 27 January 2005, and it designated the United States. On 03 August 2006, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 July 2007. The international application included 24 numbered claims.

On 26 July 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an English translation of the international application as filed (including 24 translated claims), a separate document identified as a translation "with Amended Pages Incorporated Therein" (including 20 claims), and a preliminary amendment directed to the claims. The Transmittal Letter authorized a charge to Deposit Account No. 11-1835 for any additional fees required.

Applicants were subsequently charged $360 as the fee for inclusion of a multiple dependent claim and $250 as the fee for inclusion of five extra claims in excess of twenty.

On 13 August 2007, applicants filed an executed declaration and the surcharge for filing the declaration later than thirty months after the priority date.

On 06 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c) were satisfied as of 13 August 2007.

On 27 March 2008, applicants filed the "Request For Refund" considered herein, requesting a refund of the $360 fee for inclusion of a multiple dependent claim and the $250 extra claims fee.

DISCUSSION

The present petition asserts that the 20 claims listed in the translation "with Amended Pages Incorporated Therein" are the proper basis for determining the fees due herein, such claims being based on the preliminary amendment filed with the national stage materials. However, absent an effective amendment of the claims, the 24 numbered claims (including multiple dependent claims) contained in the international application remain of record and are the proper basis for determining the fees. See MPEP § 1893.01(c):

> A preliminary amendment accompanying the initial national stage submission under 35 U.SC. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492(d)-(e) and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492(f). A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid.

In the present case, the preliminary amendment filed by applicants does not comply with the requirements of 37 CFR 1.21(c) and therefore is not an effective amendment of the claims of record herein. Specifically, the preliminary amendment does not include the required "complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application" (the preliminary amendment does not include claims 21-24 or instructions to cancel such claims).

Because the preliminary amendment filed by applicants herein was not effective, the claims of record remain the 24 numbered claims contained in the original international application. Such claims include at least one proper multiple dependent claim (Claim No. 3) and served as the correct basis for calculation of the fees herein, including the $360 fee for a multiple dependent claim and the $250 fee for extra claims over 20. Applicants request for a refund of these fees is therefore appropriately dismissed

CONCLUSION

The "Request For Refund" filed 27 March 2008 is **DISMISSED** without prejudice.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mailing date of this decision, indicated above. Any such request should include a cover sheet entitled "Renewed Refund Request" and must include a proper showing that the claims herein were effectively amended by applicants prior to the USPTO's charging of the required fees.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

24 JUN 2008

Commissioner for Patents
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FRIEDRICH KUEFFNER
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NEW YORK NY 10017

In re Application of:	:	
HOLAND, Wolfram, et al.	:	DECISION ON RENEWED
U.S. Application No.: 11/883,114	:	REFUND REQUEST
PCT No.: PCT/EP2006/050389	:	
International Filing Date: 19 January 2006	:	
Priority Date: 27 January 2005	:	
Atty Docket No.: FI-92PCT	:	
For: COATED DENTAL POWDER	:	
	:	

In a decision mailed 22 May 2008, applicants' "Request for Refund" was dismissed without prejudice. The decision indicated that applicants had not submitted a proper amendment to the claims and that the fees herein had been properly calculated based on the original 24 claims contained in the published international application.

On 18 June 2008, applicants filed the "Response To Decision On Refund Request" considered herein. This submission asserts that the original 24 claims contained in the published international application were "replaced" during the international phase with the set of 20 claims submitted with the national stage materials, and that these 20 claims are therefore of record herein and should serve as the basis for determining fees. However, the application file and applicants' present submission include no evidence that the claims in the international application were effectively amended during the international phase. There is no indication that amendments under PCT Article 19 were made in the international application, and the current online information for this international application (available at the WIPO website) confirms that the original 24 claims remain the claims of record for this application;

Applicants have failed to provide an adequate showing that a proper amendment of the claims was submitted and entered prior to applicants' entry into the U.S. national phase. The original 24 claims therefore remain the proper basis for determining the appropriate fees herein (as discussed in the previous decision). Accordingly, the requested refund remains inappropriate on the present record.

Based on the above, the renewed refund request is **DISMISSED** without prejudice.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mailing date of this decision, indicated above. Any such request should include a cover sheet entitled "Second Renewed Refund Request" and must include a proper showing that the claims herein were effectively amended by applicants prior to the USPTO charging the required fees.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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24 JUN 2008

Alston & Bird LLP
Bank of America Plaza
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Charlotte, NC 28280-4000

In re Application of FUKUSAWA, et al. Application No.: 11/883,152 PCT No.: PCT/JP2006/300923 Int. Filing Date: 17 January 2006 Priority Date: 28 January 2005 Attorney Docket No.: 021964/337110 For: ARTICLE VISUAL INSPECTION APPARATUS	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 June 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
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18 SEP 2008

Joseph J. Laks
Thomson Licensing LLC
2 Independence Way, Patent Operations
PO Box 5312
PRINCETON, NJ 08543

In re Application of: RICHARDSON	:	
U.S. Application No.: 11/883,209	:	
PCT Application No.: PCT/US2006/002415	:	
Int. Filing Date: 24 January 2006	:	DECISION
Priority Date Claimed: 28 January 2005	:	
Atty Docket No.: PU050020	:	
For: Method and Apparatus for Real-Time Frame Encoding	:	

This is in response to applicant's correspondence of 31 March 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 24 January 2006, applicant filed international application PCT/US2006/002415, which claimed priority to an earlier provisional application 60/647,824 filed 28 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 28 July 2007.

On 27 July 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 March 2008, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which indicated that the sequence listing and additional fees must be filed.

On 31 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the records for international application PCT/US2006/02415 reveals that the content of the initial published pamphlet was incorrect and has since been corrected by the International Bureau. The corrected copy of the international application will be placed in the present application file. The present application does not contain any nucleotide and/or amino acid sequences. Thus, no sequence listing is required. Furthermore, a review of the claims indicates that no further claim fees are required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 January 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 July 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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Katherine Moran
PCT Legal, Detailee
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,213	12/19/2007	Rafal Kuna	1876.064US1	9956

7590 10/07/2008
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER
PRICE, CRAIG JAMES

ART UNIT	PAPER NUMBER
3753	

MAIL DATE	DELIVERY MODE
10/07/2008	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.

Tom Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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K&L GATES LLP
3580 CARMEL MOUNTAIN ROAD
SUITE 200
SAN DIEGO CA 92130

MAILED

JUL 09 2009

OFFICE OF PETITIONS

Applicant: Pedram, et al.
Appl. No.: 11/883,247
International Filing Date: June 12, 2006
Title: ANDROGEN RECEPTOR MODULATOR COMPOUNDS AND METHODS
Attorney Docket No.: 119378-00451 / 1119US
Pub. No.: 2009/0030027 A1
Pub. Date: January 29, 2009

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on February 9, 2009, 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. The Office published the amended claims that were received by the Office on entering the National Stage. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Markus Lettmann	: DECISION ON REQUEST FOR
Patent Number	: 7610890	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/883,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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0 9 JUL 2009

Krishna V. Kalidindi
P.O. Box 270
Fredericksburg, Virginia 22404

In re Application of:	:	
WIKSTROM, ANDERS	:	DECISION
Application No.: 11/883,261	:	
PCT Application No.: PCT/FI2006/050045	:	
Int. Filing Date: 27 January 2006	:	UNDER
Priority Date: 27 January 2005	:	
Atty Docket No.: 0901-002	:	
For: ARRANGEMENT AND METHOD FOR	:	37 CFR § 1.181
FUNDRAISING AND A SERVER	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment" filed on 10 March 2009. No petition fee is required.

BACKGROUND

On 27 January 2006, applicant submitted international application PCT/FI2006/050045, which claimed priority to a prior application filed 27 January 2005.

On 04 February 2008, The United States national stage office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMETNS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (Form DO/EO/US) informing applicants of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

On 29 October 2008, applicants were mailed a Notification of Abandonment (Form PCT/DO/EO/909) informing applicants that applicants had failed to respond to the Form PCT/DO/EO/905 mailed on 04 February 2008 within the time period set therein and that the above identified application was abandoned as to the United States.

On 10 March 2009, applicants filed the petition considered herein.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

Applicant has satisfied some of the items listed above to show that the Form PCT/DO/EO/905 mailed 25 February 2008 was not received. Applicant has provided a detailed affidavit from counsel explaining the firm's docketing system, as well as, avowing that the Form PCT/DO/EO/905 was not received. Applicant has additionally included a log of items received from the USPTO from 04 February 2008 to 04 April 2008. However, counsel has not made the statement 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. Moreover, applicant has not provided a copy of the file jacket or the equivalent of the above identified application, and the application contents, indicates that the Office action was not received.

Based on the above, the present submission does not satisfy the requirement of MPEP 711.03(c).

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

03 MAR 2010

Krishna V. Kalidindi
P.O. Box 270
Fredericksburg, Virginia 22404

In re Application of:	:	
WIKSTROM, ANDERS	:	DECISION
Application No.: 11/883,261	:	
PCT Application No.: PCT/FI2006/050045	:	
Int. Filing Date: 27 January 2006	:	UNDER
Priority Date: 27 January 2005	:	
Atty Docket No.: 0901-002	:	
For: ARRANGEMENT AND METHOD FOR	:	37 CFR § 1.181
FUNDRAISING AND A SERVER	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment" filed on 03 September 2009.

BACKGROUND

On 27 January 2006, applicant submitted international application PCT/FI2006/050045, which claimed priority to a prior application filed 27 January 2005.

On 04 February 2008, The United States national stage office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMETNS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (Form DO/EO/US) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

On 29 October 2008, applicant was mailed a Notification of Abandonment (Form PCT/DO/EO/909) informing applicants that applicants had failed to respond to the Form PCT/DO/EO/905 mailed on 04 February 2008 within the time period set therein and that the above identified application was abandoned as to the United States.

On 10 March 2009, applicant filed a petition to withdraw the abandonment.

On 09 July 2009, the petition was dismissed due to lack of sufficient evidence to meet the MPEP requirement.

On 03 September 2009, applicant filed the present renewed petition to withdraw the holding of abandonment.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm.

Applicant has satisfied the items listed above including the statement from the practitioner that the Office action was not received at the correspondence address of record, and that a search of the practitioner's records, including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. The copy of the file jacket has been provided to show that the Office action was not received.

Based on the above, the present submission satisfied the requirement of MPEP 711.03(c).

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 29 October 2008 is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 10 March 2009.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557

Richard Cole
Senior PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,279	07/27/2007	Hong Zhang	78857.105335	4162

86528 7590 06/15/2010
King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin, TX 78701

EXAMINER
HUFTY, JOHN PAGE

ART UNIT	PAPER NUMBER
3747	

NOTIFICATION DATE	DELIVERY MODE
06/15/2010	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):

AustinUSPTO@kslaw.com
AustinIP@kslaw.com

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King & Spalding LLP
401 Congress Avenue
Suite 3200
Austin TX 78701

In re Application of:
ZHANG, HONG
Serial No.: 11/883,279
Filed: July 27, 2007
Docket: 78857.105335
Title: METHOD AND DEVICE FOR CONTROLLING AN INTERNAL COMBUSTION ENGINE

DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition filed on May 21, 2010 to waive four months of extension of time fee due to non-receipt of Office action mailed on December 29, 2009. A complete response was also filed concurrently with the present petition. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **dismissed**.

Discussion

In the May 21, 2010 petition, the applicant requested the acceptance of late response filed on May 21, 2010 without four months of extension of time fee due to non-receipt of the Office action of December 29, 2009. In support of his petition, the applicant provides an affidavit of Scott Richard, the IP docketing clerk of King & Spalding, LLP with a printout for docket management entries.

Practitioner fails to 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. Petitioner fails to provide a copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary

proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Since the petitioner has not met all the requirements set forth in MPEP § 711.03 (c), the late response without four months extension of time cannot be accepted. This case is technically abandoned on January 30, 2010 for failure to timely respond to the outstanding Office action mailed December 29, 2009. It is noted a notice of abandonment has not been sent due to untimely response filed on May 21, 2010.

Decision

In view that the fact that the applicant has not met the conditions set forth in MPEP § 711.03 (c), the late response filed on May 21, 2010 without four months extension of time fee will not be accepted. Furthermore, TC 3700 has no authority to waive extension of time fees. Therefore, the petitioner's request to accept the late reply without four months extension of time fee is dismissed. Alternatively, the applicant may pay five months extension of time prior to June 29, 2010 to save the application from abandonment. Petitioner may also wish to file a petition to withdraw the holding of abandonment for failure to receive Office action under 37 CFR 1.181 with the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Accordingly, the petition is **dismissed.**

Robert Olszewski, Director
Technology Center 3700
Mechanical Engineering, Manufacturing, Products
And Designs

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Shinji Tokumaru	: DECISION ON REQUEST FOR
Patent Number	: 7662356	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/883,280	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 05/18/2010

Applicant : Shinji Tokumaru
Patent Number : 7662356
Issue Date : 02/16/2010
Application No : 11/883,280
Filed : 07/27/2007

: 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 **178** 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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10 AUG 2007

Greer, Burns & Crain, LTD
300 South Wacker Drive
25th Floor
Chicago, IL 60606

In re Application of LENG, Luhao Application No.: 11/883,312 PCT No.: PCT/CN05/00450 Int. Filing Date: 06 April 2005 Priority Date: 06 April 2004 Attorney Docket No.: 1991.78553 For: COMBINED AND UPRIGHT FILE STORAGE CABINET	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 July 2007, in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 04/21/2010

Applicant	: Andreas Genesius	: DECISION ON REQUEST FOR
Patent Number	: 7597562	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/883,321	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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24 SEP 2007

Gary M. Nath
The Nath Law Group
112 South West Street
Alexandria, VA 22314

In re Application of	:	
Relats, et al.	:	
Serial No.: 11/883,374	:	DECISION ON
PCT No.: PCT/ES2004/000539	:	PETITION
Int. Filing Date: 02 December 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: 27744U	:	
For: PROTECTION TUBE WHICH IS	:	
RESISTANT TO HIGH TEMPERATURES	:	

This decision is responsive to the "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION. UNDER 37 C.F.R. § 1.137(b)" filed 31 July 2007.

BACKGROUND

On 02 December 2004, applicants filed international application PCT/ES2004/000539. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 02 June 2007.

On 31 July 2007, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a copy of the application, a translation a petition to revive and the petition fee, the declaration of the inventors, the basic national fee, the search fee and the examination fee. These papers were assigned U.S. Serial No. 11/833,374.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by 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," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided the required statement and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **31 July 2007**.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
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United States Patent and Trademark Office

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18 SEP 2007

NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

In re Application of	:	
RELATS et al.	:	
Application No.: 11/883,376	:	
PCT No.: PCT/ES04/00537	:	
Int. Filing Date: 02 December 2004	:	DECISION
Earlier Priority Date: None	:	
Attorney Docket No.: 28450U	:	
For: Open Protective Tube	:	

The petition to revive under 37 CFR 1.137(b) filed 31 July 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant, "through the undersigned attorney, states that the entire delay in filing this entry into the US national phase, due 2 June 2007, until the filing of this statement and the attached Petition under 37 CFR 1.137(b), is unintentional, as required by 37 CFR 1.137(b)3." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Petitioner's Deposit Account no. 14-0112 is being charged in the amounts of $65.00 for the surcharge under 37 CFR 1.492(h) (fee code 2617) and $130.00 for the processing fee under 37 CFR 1.492(i), per the fee authorization filed on 31 July 2007.

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **31 July 2007**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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12 SEP 2007

NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

In re Application of	:	
RELATS et al.	:	
Application No.: 11/883,379	:	DECISION ON
PCT No.: PCT/ES2004/000538	:	
Int. Filing Date: 02 December 2004	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 2845IU	:	37 CFR 1.137(b)
For: HEAT PROTECTION TUBE	:	

This decision is in response to applicant's submission filed 31 July 2007.

BACKGROUND

On 02 December 2004, applicant filed international application PCT/ES2004/000538 which designated the U.S. and did not claim a priority date. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 June 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 2007 (02 June 2007 being a Saturday).

On 31 July 2007, applicant filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an assertion of small entity status, an English translation of the international application as filed, a declaration of the inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 31 July 2007.

As to item (2), applicant submitted the petition fee on 31 July 2007.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of the inventors filed 31 July 2007 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(h) of $65 for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 14-0112.

Translation

The processing fee under 37 CFR 1.492(i) of $130 for providing an English translation later than thirty months from the earliest priority date has been charged to Deposit Account 14-0112.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

United States Patent and Trademark Office

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18 SEP 2007

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of	:	
Kurikawa	:	
Application No.: 11/883,386	:	
PCT No.: PCT/JP05/18001	:	
Int. Filing Date: 29 September 2005	:	DECISION
Priority Date: 29 September 2004	:	
Attorney Docket No.:Q103060	:	
For: Member For Supporting Thin Film Coated Board,	:	
Container For Storing Thin Film Coated Board,	:	
Mask Blank Storing Body, Transfer Mask Storing...	:	

The petition to revive under 37 CFR 1.137(b) filed 01 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee. The petition fee is being charged to petitioner's Deposit Account. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The $1500.00 petition fee (fee code 1453) is being charged to petitioner's Deposit Account no. 19-4880, as authorized by the Transmittal Letter accompanying the petition.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), an English translation of the international application, the surcharge under 37 CFR 1.492(h), and the processing fee under 37 CFR 1.492(i).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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.
11/883,392	02/27/2008	Atsushi Terayama	68846(71719)	4315

7590 07/01/2009
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

EXAMINER

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
07/01/2009	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)

2 3 JUN 2008

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Thorpe North & Western, LLP
P.O. Box 1219
Sandy, UT 84091-1219

In re Application of	:	DECISION ON
KRUPIN, Alexander	:	
PCT No.: PCT/IB2006/001889	:	
Application No.: 11/883,431	:	PETITION UNDER
Int. Filing Date: 24 January 2006	:	
Priority Date: 03 February 2005	:	
Attorney's Docket No.: 02214-25223.PCT.US	:	37 CFR 1.47(b)
For: CHEMICAL BENEFICIATION...	:	
TANTALUM-NIOBIUM	:	

This decision is in response to applicant's "PETITION TO ACCEPT DECLARATION UNDER 37 CFR 1.47(a) (MPEP 409.03 – INVENTOR REFUSES TO SIGN)" submitted on 12 May 2008, which is being treated as a petition under 37 CFR 1.47(b) that seeks the acceptance of the application without the signature of the inventor Mr. Alexander Krupin. The petition fee of $200 has been provided by check.

BACKGROUND

On 24 January 2006, applicant filed international application PCT/IB2006/001889, which claimed priority of an earlier application filed 03 February 2005.

On 30 July 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 08 February 2008, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date." The notification set two months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 12 May 2008, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration for U.S. Patent Application executed by Mr. Alexander Krupin;

3) Declaration by Mr. Alexander Krupin;

4) the required petition fee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1), (3), and (6) but not items (2), (4) and (5) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by petitioner.

Regarding requirement (2), although petitioner has concluded that Mr. Alexander Krupin has refused to sign the declaration the petition does not include sufficient proof to establish that inventor Mr. Prigent has refused to execute the application. The standards for proof are set forth in MPEP § 409.03(d), which provides:

> The affidavit or declaration 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....
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the non - signing inventor, or, if the non - signing inventor is represented by counsel, to the address of the non - signing inventor's attorney.
>
> 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.

In the present instance, it is unclear if a complete set of the application papers were presented to Mr. Krupin for his signature. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for his signature. From the declaration provided by Raimo Raudvee, it appears that there was no bona fide attempt to send the application papers to Mr. Krupin for his signature at his last known address since Mr. Raudvee only mentions sending the signature documents pertaining to the patent application, and no mention of the application paper appears in his statement. Although, the copy of the cover letter of 29 April 2008 refers to the application as filed on July 30, 2007 the attachments section is blank so it is unclear if a copy of the application was included in the mailing.

Moreover, petitioner gave Mr. Krupin a short time to respond (about a little over a week) for him to review and sign the papers. The papers were mailed on April 29, 2008 and were expected to be return by May 8, 2008. Furthermore, the call to Mr. Krupin was made on May 8, 2008 and Mr. Krupin did not appear to have had enough time to review and make the determination whether to sign or refuse to sign the required papers.

Consequently, the petition does not include sufficient factual proof that Mr. Alexander Krupin refuses to sign the required papers.

Regarding item (3), applicant has stated the last known address of the inventor:

Oismae tee 36-93
Tallinn 13511, Estonia

Regarding item (4) a proper declaration has not been provided. The executed declaration provided is defective because it does not state the relationship of the person signing to the inventor, as required by 37 CFR 1.497(b)(2). An appropriate corporate officer has to sign on behalf of the corporation for the nonsigning inventor. Note MPEP 1820.

Also, the declaration does not have the proper language as The United States Patent and Trademark Office (Office) will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. 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).

Regarding item (5) applicant has not submitted proof that applicant has sufficient proprietary interest in the application. Mr. Raudvee's statement is not sufficient without corroborating evidence since there is no copy of the assignment (signed assignment by inventor Mr. Krupin) provided with this petition.

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 prior to the date the application is deposited in the Patent and Trademark Office.

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration 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 otherwise 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. Note MPEP 409.03(f)

Regarding item (6) petitioner has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage if the response to the missing parts of the application is not timely.

Accordingly, because items (2), (4), and (5) under 37 CFR 1.47(b) have not been met it is not appropriate to accord the national stage application status at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

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Sandy, UT 84091-1219

In re Application of KRUPIN, Alexander PCT No.: PCT/IB2006/001889 Application No.: 11/883,431 Int. Filing Date: 24 January 2006 Priority Date: 03 February 2005 Attorney's Docket No.: 02214-25223.PCT.US For: CHEMICAL BENEFICIATION... TANTALUM-NIOBIUM	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.47(b)... REFUSES TO JOIN" submitted on 18 August 2008 that seeks the acceptance of the application without the signature of the inventor Mr. Alexander Krupin.

BACKGROUND

In a decision from this Office on 23 June 2008, the petition filed on 12 May 2008 was dismissed because applicant did not satisfy items (2) and (4)-(5) under 37 CFR 1.47(b).

On 18 August 2008, applicant filed a renewed petition which includes, inter alia, a declaration by Mr. Raimo Raudvee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant with the renewed petition has now satisfied items (1) – (6) thus completing the requirements under 37 CFR 1.47(b).

Regarding requirement (2), petitioner has concluded that Mr. Krupin has refused to sign the declaration and the petition does include sufficient proof to establish that inventor Mr. Krupin has refused to execute the application since a complete application papers were mailed on 29 April 2008 and 30 April 2008 they were emailed to him and he has not signed and returned the required papers. In addition, on April 29, 2008 Mr. Raudvee met with him and Mr. Krupin and he orally refused to sign the required papers. Mr. Raudvee, then, called on Thursday May 8, 2008 to confirm receipt of the papers which Mr. Krupin did and again he orally refused.

Therefore the evidence provided does sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Mr. Krupin.

Regarding item (4) Mr. Raudvee has provided an executed declaration sign on the behalf of the nonsiging inventor and behalf of the company as an officer. The requisite statement that he is authorized to sign on behalf of the corporation as a director has been stated in the petition by Mr. Hobson.

Regarding item (5) applicant has submitted sufficient proof that applicant has a proprietary interest in the application because of a copy of the assignment document by Mr. Krupin and Mr. Raudvee for Brazilian Patent Application No.: PI0500788-0, from which priority is claimed for International Application No.: PCT/IB2006/001889.

Consequently, the current record does sufficiently establish Mr. Krupin's refusal to sign the required papers.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to continue national stage processing of the application. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **18 August 2008.**

Rafael Bacares
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02 FEB 2009

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Alexander, KRUPIN
Oismae tee 36-93
Tallinn 13511, Estonia

In re Application of
Alexander KRUPIN
PCT No.: PCT/IB2006/001889
Application No.: 11/883,431
Int. Filing Date: 24 January 2006
Priority Date: 03 February 2005
Attorney's Docket No.: 02214-25223.PCT.US
For: CHEMICAL BENEFICIATION ...
TANTALUM-NIOBIUM

Dear Mr. Krupin:

Your husband is named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, he will be designated as an inventor.

As a named inventor, you, as his legal representative since he is deceased, are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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30 AUG 2007

VAN DYKE, GARDNER, LINN & BURKHART, LLP
2851 Charlevoix Drive, S.E.,
Suite 207
Grand Rapids, MI 49546

In re Application of
BOOKER *et al*
U.S. Application No.: 11/883,465
PCT No.: PCT/US2005/025903
Int. Filing Date: 21 July 2005
Priority Date: 21 July 2004
Attorney Docket No.: SEN01 P-345B
For: FAST RESPONSE PROPORTIONAL SAMPLING SYSTEM AND METHOD FOR EXHAUST GAS ANALYSIS

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 31 July 2007 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted. The $65.00 surcharge fee has been charged to Deposit Account No. 22-0190 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 July 2005 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 31 July 2007.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Busser et al.	:	DECISION ON PETITION
Application No. 11/883,466	:	TO WITHDRAW
Filed: August 21, 2008	:	FROM RECORD
Attorney Docket No. 2005P01377	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 2, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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21 AUG 2007

SCHULTE ROTH & ZABEL LLP
ATTN: JOEL E. LUTZKER
919 THIRD AVENUE
NEW YORK, NY 10022

In re Application of LI et al	:	
U.S. Application No.: 11/883,468	:	
PCT Application No.: PCT/CN2006/000072	:	DECISION
Int. Filing Date: 18 January 2006	:	
Priority Date Claimed: 19 January 2005	:	
Attorney Docket No.: 064758-0015	:	
For: A SEALING MEMBER FOR CARTRIDGE OF INKJET PRINTER	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 31 July 2007.

BACKGROUND

On 18 January 2006, applicant filed international application PCT/CN2006/000072, which claimed priority of an earlier China application filed 19 January 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 27 July 2006. The thirty-month period for paying the basic national fee in the United States expired on 19 July 2007.

International application PCT/CN2006/000072 became abandoned as to the United States for failure to timely pay the basic national fee.

On 31 July 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

Adam P. Brown
ExxonMobil Upstream Research Company
P.O. Box 2189
CORP-URC-SW337
Houston TX 77252-2189

In re Application of

Keller, et al.

Application No. 11/883,470

Filed: July 31, 2007

Attorney Docket No. 2005UR004/2

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 23, 2010.

The petition is **dismissed**.

This application was held abandoned March 2, 2010, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed December 1, 2009. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on March 2, 2010. A Notice of Abandonment was mailed March 16, 2010. The instant petition was filed on March 23, 2010. Petitioner maintains that the notice of December 1, 2009, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not made the evidentiary showing specified above. Petitioner has not provide a copy of the master docket for the firm for the three month period for reply set forth in Notice of Allowance and Issue Fee Due. If a master docket does not exists, petitioner is required to state this in the renewed petition and provide any other corroborative evidence that petitioner may have to substantiate the claim that the Notice of Allowance and Issue Fee Due was not received.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Keller, et al.

Application No. 11/883,470

Filed: July 31, 2007

Attorney Docket No. 2005UR004/2

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 11, 2010.

The petition is **granted**.

This application was held abandoned March 2, 2010, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed December 1, 2009. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on March 2, 2010. A Notice of Abandonment was mailed March 16, 2010. The instant renewed petition was filed on June 11, 2010. Petitioner maintains that the notice of December 1, 2009, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application

> contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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 Data Management for further processing that will include remailing of the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 28 2010

OFFICE OF PETITIONS

Adam P. Brown
ExxonMobil Upstream Research Company
P.O. Box 2189
CORP-URC-SW337
Houston TX 77252-2189

In re Application of

Keller, et al.

Application No. 11/883,470

Filed: July 31, 2007

Attorney Docket No. 2005UR004/2

DECISION ON PETITION

This is a **corrected** decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 11, 2010.

The petition is **granted**.

This application was held abandoned March 2, 2010, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed December 1, 2009. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on March 2, 2010. A Notice of Abandonment was mailed March 16, 2010. The instant renewed petition was filed on June 11, 2010. Petitioner maintains that the notice of December 1, 2009, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application

> contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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 Technology Center GAU 3676 for further processing that will include remailing of the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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21 AUG 2007

MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS NY 10606

In re Application of LUEBBERS et al.	:	
Application No.: 11/883,473	:	
PCT No.: PCT/DE05/02221	:	DECISION ON
Int. Filing: 09 December 2005	:	
Priority Date: 13 December 2004	:	PETITION TO REVIVE
Attorney Docket No.: UC 215-KFM	:	
For: IRRITATION MEMBER	:	UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 31 July 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has now been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), an English translation of the international application, the surcharge for filing the oath or declaration and the processing fee for filing the English translation after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

JUN 29 2009

OFFICE OF PETITIONS

Applicant: Kritzler
Appl. No.: 11/883,492
International Filing Date: February 2, 2006.
Title: BIOSTATIC POLYMER
Attorney Docket: B1039.70008US00
Pub. No.: US 2008/0138312 A1
Pub. Date: June 12, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 12, 2008, for the above-identified application.

The request is GRANTED.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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31 AUG 2007

20529
NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

In re Application of SEGEV, Avnar U.S. Application No.: 11/883,515 PCT No.: PCT/IL2006/000125 Int. Filing Date: 31 January 2006 Priority Date: 31 January 2005 Attorney Docket No.: 28530U For: METHOD AND SYSTEM FOR ILLUMINATION ADJUSTMENT	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's petition to revive under 37 CFR 1.137(b) filed on 01 August 2007 with the national stage papers is hereby **GRANTED** as follows:

The basic national fee and the petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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COPY MAILED

OCT 12 2007

OFFICE OF PETITIONS

L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVENUE
PMB 403
MILFORD MI 48381

In re Application of	:	
Gene Hirs	:	
Application No. 11/883,562	:	DECISION ON PETITION
Filed: August 1, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 5740-00039	:	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 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 1724 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,573	08/02/2007	Masato Nakanishi	056208.59312US	5061

7590 03/12/2009
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
03/12/2009	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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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23628
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of :
STERNAM, Baruch :
U.S. Application No.: 11/883,605 :
PCT No.: PCT/IL2006/000133 :
Int. Filing Date: 02 February 2006 : **DECISION**
Priority Date: 03 February 2005 :
Attorney's Docket No.: K0534.70000US00 :
For: PROVIDING EFFECTIVE :
ADVERTISING VIA SYNCHRONIZED :
TELEPHONE AND DATA STREAMS :

This is a decision on the response filed 27 August 2009.

BACKGROUND

On 27 March 2009, applicants filed a Supplemental Application Data Sheet (ADS) requesting that the family name of the sole inventor be changed from STERNAM to STERMAN.

On 12 August 2009, a Communication was mailed with regards to the name change of the inventor. Applicants were given two months to respond with extensions of time available.

On 27 August 2009, applicants filed the subject response.

DISCUSSION

In the response to the Communication mailed 12 August 2009, applicants state that the "change in the spelling of the inventor's name comes about from a transliteration error. The transliteration error was present in the declaration . . . and in the international publication, both of which have the inventor's name listed incorrectly."

Section 201.03 of the Manual of Patent Examining Procedure (MPEP) states that where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. Reference to the notification will be made on the previously filed declaration.

Applicants' explanation meets the requirements of the MPEP.

11/883,605

CONCLUSION

The surname of the inventor has been changed to Baruch STERMAN and will appear as such when the patent is published.

This application is being forwarded to Group Art Unit 2423 for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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2 9 FEB 2008

RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

In re Application of	:	DECISION ON
Mineo Miura	:	
Application No.: 11/883,641	:	
PCT No.: PCT/2006/308136	:	
Int. Filing Date: 18 April 2006	:	PETITION
Priority Date: 22 April 2005	:	
Attorney's Docket No.: AI- 485NP	:	
For: SEMICONDCUTOR DEVICE AND MEHTOD	:	
FOR MANUFACTURING SAME	:	UNDER 37 CFR 1.182

This decision is in response to the "Transmission filing" filed on 03 August 2007, which is being treated as a petition under 37 CFR 1.182 to correct PCT serial number from the filed entry of PCT/2006/308136 to PCT/JP2006/308136. Applicant has not paid the petition fee of $400.00 under 37 CFR 1.17(f).

BACKGROUND

On 18 April 2006, this international application was filed, claiming an earliest priority date of 22 April 2004.

On 03 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1), and an executed declaration of the inventor.

However, the incorrect PCT number was submitted at the time of filing.

DISCUSSION

Applicant has entered the incorrect PCT serial number, PCT/2006/308136, at the time of filing the application on the Transmittal letter and ADS. Applicant will need to correct the incorrect PCT serial number and explain the error.

Once the petition is granted the correct number will be reflected in the filing receipt.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182," and the petition must be paid.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

2 1 MAY 2008

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

In re Application of	:	DECISION ON
Mineo Miura	:	
Application No.: 11/883,641	:	
PCT No.: PCT/2006/308136	:	
Int. Filing Date: 18 April 2006	:	RENEWED PETITION
Priority Date: 22 April 2005	:	
Attorney's Docket No.: AI- 485NP	:	
For: SEMICONDCUTOR DEVICE AND MEHTOD	:	
FOR MANUFACTURING SAME	:	UNDER 37 CFR 1.182

This decision is in response to the "RENEWED PETITION UNDER CFR 1.182" filed on 21 April 2008, to accept entry of the above identified application into the national stage with the corrected PCT number of PCT/JP2006/308136. Petitioner has paid the petition fee of $400.00.

BACKGROUND

In a decision from this Office on 29 February 2008, the petition filed on 03 August 2007 was dismissed.

On 21 April 2008, petitioner filed the current petition.

DISCUSSION

Petitioner states that the PCT number was unintentionally entered as PCT/2006/30816 rather than the correct number PCT/JP2006/308136 due to a typographical error.

Although applicants entered the incorrect PCT serial number at the time of filing the application, the correct PCT number PCT/JP2006/308136 was placed in the executed declaration. Accordingly, there is sufficient evidence that the correct international application PCT number is PCT/JP2006/308136.

Therefore, petition to accept the correct PCT number of PCT/JP2006/308136 for the instant application is granted, and will be reflected in the filing receipt.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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2 2 JUL 2009

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32042
PATTON BOGGS LLP
8484 Westpark Drive
Suite 900
McLean, VA 22102

In re Application of	:	
ROELVINK *et al*	:	
Application No.: 11/883,645	:	
PCT No.: PCT/US2006/004003	:	
Int. Filing Date: 03 February 2006	:	**DECISION**
Priority Date: 03 February 2005	:	
Docket No.: 023004.0114P2US	:	
For: RNAI EXPRESSION CONSTRUCTS	:	

This is a decision on the petition under 37 CFR 1.47(a) filed on 17 October 2008.

BACKGROUND

On 19 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a CRF sequence listing, an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 17 October 2008, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a CRF sequence listing, a declaration signed by three of the four inventors; the $200.00 petition fee; the $130.00 surcharge fee; a five-month extension and fee and documentary evidence in support of the petition.

DISCUSSION

Applicants claim that co-inventor, Dr. Linda Couto, refuses to cooperate and have filed the subject petition under 37 CFR 1.47(a) in response to the Form PCT/DO/EO/905[1] mailed 19 March 2008.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or

[1] The CRF sequence listing provided by applicants with the subject petition on 17 October 2008 was accepted.

declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventor. Item (4) is not yet complete.

The petition fee and last known address of Dr. Couto were provided in the petition. Regarding item (2) of 37 CFR 1.47(a), applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

> A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> 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 . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

Here, petitioners provided a statement of facts showing that a copy of the application papers and declaration were sent to the nonsigning inventor's last known address on 22 May 2008 and again on 21 August 2008. Petitioners provided statements and documentary evidence showing that the documents were delivered on 27 May 2008 and 25 August 2008 respectively. No response was received from the nonsigning inventor. Mr. Jason Smythe stated in a declaration that he also sent emails to the nonsigning inventor on 22 April 2008 and 09 May 2008 and again on 26 August 2008 requesting that Dr. Couto cooperate, to no avail. Mr. Peter Roelvink, a co-inventor, contacted Dr. Couto via email and received a response on 19 May 2008 in which the nonsigning inventor indicated that she received the documents for the subject invention but was unwilling to cooperate until Benitec pays her more money.

This evidence is sufficient to show a refusal by conduct as contemplated by section 409.03(d)(II) of the MPEP. Item (2) of 37 CFR 1.47(a) is also satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by three joint inventors on behalf of the nonsigning joint inventor. However, the declaration submitted with the petition on behalf of the nonsigning inventor is a composite declaration. The declaration consists of six total pages (one Page 1 of 4,

one Page 2 of 4, one Page 3 of 4, and three Pages 4 of 4). Each Page 4 of 4 lists the same inventors, but was separately executed. As such, this declaration is not acceptable.

While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy presented to each inventor must be returned to the Office. *See* MPEP § 605.04(a).

For this reason, item (4) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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05 OCT 2009

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32042
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8484 Westpark Drive
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McLean, VA 22102

In re Application of	:	
ROELVINK *et al*	:	
Application No.: 11/883,645	:	
PCT No.: PCT/US2006/004003	:	
Int. Filing Date: 03 February 2006	:	**DECISION**
Priority Date: 03 February 2005	:	
Docket No.: 023004.0114P2US	:	
For: RNAI EXPRESSION CONSTRUCTS	:	

This is a decision on the request for reconsideration filed 04 August 2009 which is treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 22 July 2009, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 04 August 2009, applicants filed the renewed petition which was accompanied by, *inter alia*, a declaration executed by three of the four named inventors.

DISCUSSION

As previously noted, a petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor. Item (4) was not satisfied in the initial petition.

In the request for reconsideration, petitioners included a complete copy of each declaration signed by three of the four joint inventors listed on the international publication. The declaration is in compliance with 37 CFR 1.497(a) and (b) and meets the requirements of section 409.03(a)(A) of the MPEP.

All items of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 February 2006 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 04 August 2009.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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United States Patent and Trademark Office
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05 OCT 2009

Ms. Linda Couto
7814 Oak Creek Drive
Pleasanton, CA 94588

In re Application of
ROELVINK *et al*
Application No.: 11/883,645
PCT No.: PCT/US2006/004003
Int. Filing Date: 03 February 2006
Priority Date: 03 February 2005
Docket No.: 023004.0114P2US
For: RNAI EXPRESSION CONSTRUCTS

Ms. Couto:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

PATTON BOGGS LLP
8484 Westpark Drive
Suite 900
McLean, VA 22102

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06 MAY 2008

Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, MA 02205

In re Application of		
AIDA et al.		
Application No.: 11/883,672	:	
PCT No.: PCT/JP2006/300994	:	
Int. Filing Date: 24 January 2006	:	DECISION
Priority Date: 04 February 2005	:	
Atty. Docket No.: 68858(49811)	:	
For: TRANSDERMAL ABSORPTION PATCH	:	

This decision is in response to applicants' "Request for Corrected Notice of Acceptance" filed on 25 April 2008.

BACKGROUND

On 24 January 2006, applicant filed international application PCT/JP2006/300994 which claimed a priority date of 04 February 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 August 2007.

On 02 August 2007, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a translation of the international application; a preliminary amendment; and an executed declaration. Applicant did not mark Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)."

On 05 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 02 August 2007 and a 35 U.S.C. 371 completion date of 04 August 2007.

On 25 April 2008, applicant filed "Request for Corrected Notice of Acceptance of Application."

DISCUSSION

Applicant requests that the date of completion of requirements on the Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495 should be corrected to 02 August 2007. The Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) indicates the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements and it also indicates the date of completion of all 35 U.S.C. 371 requirements. MPEP §1893.03(b) states that the date of completion of all 35 U.S.C. 371 requirements will be later than the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) when a request for early processing has not been requested prior to 30 months from the priority date. Here, applicants submitted the basic national fee; a translation of the international application; and an executed declaration on 02 August 2007 which are the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). However, applicant did not check Box 3 on the transmittal letter (PTO-1390) which states "[t]his is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Article 22 and 39(1)" and therefore, national stage processing or the date of completion of all 35 U.S.C. 371 requirements could not begin prior to 30 months from the priority date, 04 August 2007. Therefore, the correction of the Notification of Acceptance to indicate a date of 02 August 2007 is not proper since the requirements set forth in 35 U.S.C. 371 were completed on 04 August 2007.

CONCLUSION

Applicants' request for the issuance of a corrected Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 is **REFUSED**.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,680	09/26/2007	Eiko Furusho	F-9502	5991

28107 7590 03/19/2008
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
03/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAR 18 2008

TECHNOLOGY CENTER 3600

Jordan and Hamburg, LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

In re application of
Eiko Furusho
Application No. 11/883,680
Filed: September 26, 2007
For: WHEELCHAIR

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 Decmeber 27, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of 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 program and petition fail to include:
(1) - (2) This application does not currently claim priority under 35 USC 119(a) to the JPO application (JP2007-503624) that contains the allowable claims. It does contain claims to priority to 3 other JP applications, but not the application that contains the allowable claims.

(2) & (5) Applicant has not submitted a copy of the allowable patent claims nor a copy of the latest Office action from the JPO application (2005-084441). It was noticed that the boxes indicating such documents are available via the Dossier Access System, however, these documents are not currently available to import into our Image File Wrapper system, and the boxes are apparently there for our future ability to import.

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: 3/18/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,680	09/26/2007	Eiko Furusho	F-9502	5991

28107 7590 05/08/2008
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER
WINNER, TONY H

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
05/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TECHNOLOGY CENTER 3600

Jordan and Hamburg, LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

In re application of
Eiko Furusho
Application No. 11/883,680
Filed: September 26, 2007
For: WHEELCHAIR

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 April 14, 2008, to make the above-identified application special.

The request and petition are **DENIED**.

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).

The renewed request to participate in the PPH program and petition fail to include: Item (1). This application does not currently claim priority under 35 USC 119(a) to the JPO application (JP2007-503624) that contains the allowable claims. It does contain claims to priority to 3 other JP applications, but not the application that contains the allowable claims. The renewed petition refers to a memo issued by the Commissioner for Patents on May 17, 2007 that revised the PPH program requirements so that "if the JP national application containing the allowable/patentable claims is a JP application which is other than the priority application...applicant must indicate on the form PTO/SB/20...how the JP national application is related to the JP priority application." In this case the applicant indicates that JP2007-503624 (the JP national application containing the allowable claims) is a national stage of PCT/JP06/30214. However, the JP priority applications are JP5005-38126; JP2005-108875 and JP2005-299364, and it remains unclear how the above 3 priority applications are related to the JP national application JP2007-503624, if they are indeed related. Without this disclosed relationship, the condition above is not met and the petition is denied.

No time period for reply to this decision is available since all of the deficiencies outlined in the dismissal of March 19, 2008 have not been been corrected.

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: 5/7/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,680	09/26/2007	Eiko Furusho	F-9502	5991

28107 7590 07/29/2008
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER
ADAMS, TASHIANA R

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
07/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TECHNOLOGY CENTER 3600

Jordan and Hamburg, LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

In re application of
Eiko Furusho
Application No. 11/883,680
Filed: September 26, 2007
For: WHEELCHAIR

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 petition filed on July 8, 2008 under 37 CFR 1.181 for Supervisory Review of the decision denying the request to participate in the Patent Prosecution Highway (PPH) Program.

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 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).

An initial PPH request was filed on December 27, 2007, which was dismissed in a decision mailed March 19, 2008. A renewed PPH request was filed on April 14, 2008, and was denied in a decision mailed May 8, 2008.

The reason for the denial was that the "renewed petition refers to a memo issued by the Commissioner for Patents on May 17, 2007 that revised the PPH program requirements so that "if the JP national application containing the allowable/patentable claims is a JP application which is other than the priority application...applicant must indicate on the form PTO/SB/20...how the JP national application is related to the JP priority application." In this case the applicant indicates that JP2007-503624 (the JP national application containing the allowable claims) is a national stage of PCT/JP06/30214. However, the JP priority applications are JP5005-38126; JP2005-108875 and JP2005-299364, and it remains unclear how the above 3 priority applications are related to the JP national application JP2007-503624, if they are indeed related. Without this disclosed relationship, the condition above is not met and the petition is denied."

Applicant's petition argues that "application 11/883,680 is the 35 USC 371 National Stage Application of PCT/JP2006/302124", that "11/833,680 claims priority under 35 USC 119(a) to Japanese Patent National applications JP5005-38126; JP2005-108875 and JP2005-299364", that "PCT/JP2006/302124 also claims priority to Japanese Patent National applications JP5005-38126; JP2005-108875 and JP2005-299364", that the "applicant also filed JP2007-503624 as a Japanese National Stage Application of PCT/JP2006/302124", and that a "decision to grant a patent was issued by the JPO for JP2007-503624.

While the above explanation of the relationship between the 3 priority JP applications and the JP national application JP2007-503624 is clear, the petitions filed December 27, 2007 and March 19, 2008 did not clearly explain this relationship. However, the explanation of the relationship is seen as being at least inferentially disclosed, and thus it is decided that the required explanation of how the JP national application is related to the JP priority applications was at least minimally met by the applicant.

The petition under 37 CFR 1.181 has been **GRANTED.** In light of this decision, the requests to participate in the PPH program are deemed to have complied with the above requirements and the request is **GRANTED**. 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.

Wynn Coggins,
Director, Technology Center 3600
(571) 272-5350

WC/sm: 7/25/08

SM

1 5 NOV 2007

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20583
JONES DAY
222 East 41st St.
New York, NY 10017

In re Application of:	
DIXON *et al*	
U.S. Application No.: 11/883,695	
PCT No.: PCT/AU2006/000136	
Int. Filing Date: 03 February 2006	**DECISION**
Priority Date: 04 February 2005	
Attorney Docket No.: 12230-001-999	
For: DOUBLE-STRANDED OLIDONUCLEOTIDES AND USES THEREOF	

This decision is in response to applicants' petition to revive under 37 CFR 1.137(b) filed on 28 September 2007 which is hereby **GRANTED** as follows:

The basic national fee, and petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. All requirements of 37 CFR 1.137(b) are satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was not provided.

This application is being forwarded to the Office of Patent Application Processing for the mailing of a Form PCT/DO/EO/905.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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02 DEC 2008

JONATHAN SPANGLER
NuVasive, Inc.
7475 LUSK BOULEVARD
SAN DIEGO CA 92121

In re Application of	:	DECISION
GHARIB et al.	:	
Application No.: 11/883,709	:	
PCT No.: PCT/US2006/003966	:	
Int. Filing Date: 02 February 2006	:	
Priority Date: 02 February 2005	:	
Attorney Docket No.: 133US1	:	
For: SYSTEM AND METHODS FOR	:	
PERFORMING NEUROPHYSIOLOGIC	:	
ASSESSMENTS DURING SPINE SURGERY		

This decision is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR 1.48(a)", which has properly been treated as a petition under 37 CFR 1.497(d), filed 05 September 2008.

BACKGROUND

On 02 February 2006, applicants filed international application PCT/US2006/003966 which designated the U.S. and claimed a priority date of 02 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 10 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 August 2007.

On 02 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a partially executed declaration of inventors.

On 05 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a fully executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 05 September 2008, applicants submitted a fully executed declaration of inventors and the instant petition under 37 CFR 1.497(d) requesting that two inventors be deleted. The

petition was accompanied by a statement from Jeff Balzer, a statement from Blair Calancie, a consent of assignee statement from Nuvasive, Inc., and a statement under 3.73(b).

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

Items (1)-(3) have been satisfied. Item (4) is not required.

The declaration of inventors filed 05 September 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of James Gharib, Allen Farquhar, and Doug Layman as inventors.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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15 JUL 2008

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34872
BASELL USA INC.
Delaware Corporate Center II
2 Righter Parkway, Suite #300
Wilmington, DE 19803

In re Application of :
MORHARD *et al* :
U.S. Application No.: 11/883,715 :
PCT No.: PCT/EP2006/050533 :
Int. Filing Date: 30 January 2006 : **DECISION**
Priority Date: 03 February 2005 :
Attorney Docket No.: FE 6236 (US) :
For: PROCESS FOR PRODUCING :
THERMOFORMED ARTICLES :

This decision is in response applicants' petition under 37 CFR 1.137(b), or in the alternative petition under 37 CFR 1.137(a) filed on 27 May 2008.

BACKGROUND

On 03 August 2007, applicants filed papers to enter the national stage of PCT/EP2006/050533 which was accompanied *by, inter alia*, a transmittal letter authorizing the basic national fee to be charged to Deposit Account No. 08-2336.

On 18 March 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) in the above-captioned application for failing to provide the full U.S. Basic National Fee by 30 months pursuant to 37 CFR 1.495(b)(2).

On 27 May 2008, applicants filed a petition to revive under 37 CFR 1.137(b), or in the alternative 37 CFR 1.137(a) which was accompanied by authorization to charge any required fees to Deposit Account No. 08-2336.

DISCUSSION

Applicants request that the subject application be revived pursuant to 37 CFR 1.137(b), or in the alternative 37 CFR 1.137(a). In these situations, the Office will first consider the petition under 37 CFR 1.137(a).

Petition to Revive an Unavoidably Abandoned Application Under 37 CFR 1.137(a)

A petition to revive an abandoned application pursuant to 37 CFR 1.137(a) must

be accompanied by: (1) the required reply; (2) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the petition fee.

Applicants filed an appropriate response by paying the basic national fee, the search fee, and the examination fee. These fees have been charged to Deposit Account No. 08-2336 as authorized. A terminal disclaimer is not required. The petition fee of $510.00 has also been charged to Deposit Account No. 08-2336.

Items (1), (3) & (4) of 37 CFR 1.137(a) are complete

Regarding item (2), applicants claim that a wire transfer of $80,000 was made to their Deposit Account on 06 August 2007; however, the money was not posted until 13 August 2007. Hence, applicants request that the problem in paying the required fees in the above-captioned application may have been due "to an oversight by the PTO." As such, the abandonment of the application was unavoidable.

To avoid abandonment of a national stage application, applicants must furnish to the USPTO prior to the expiration of thirty months from the priority date, the basic national fee. 37 CFR 1.495(b)(2).

Here, the thirty-month period expired on 03 August 2007. Accordingly, applicants must have had sufficient funds in their Deposit Account to cover the basic national fee on 03 August 2007. Applicants did not send the wire transfer of $80,000 until 06 August 2007. Any delay in posting the funds to their Deposit Account until 13 August 2008 is irrelevant. By then, the application was already abandoned.

For the reason listed above, applicants' petition for revival pursuant to 37 CFR 1.137(a) is **DISMISSED** without prejudice.

Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed in the alternative is hereby **GRANTED** as follows:

As indicated above, the proper fees have been charged to counsel's Deposit Account No. 08-2336. The required petition fee of $1,540.00 has also been charged to Deposit Account No. 08-2336 as authorized. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

11/883,715

This application is being forwarded to the Office of Patent Application Processing for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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2 3 OCT 2007

RUSSO & DUCKWORTH , LLP
9090 IRVINE CENTER DRIVE , SECOND FLOOR
IRVINE, CA 92618

In re Application of	:	
MACKAY, Jeffrey H. et al.	:	
Application No.: 11/883,740	:	
PCT No.: PCT/US2005/046925	:	DECISION
Int. Filing Date: 23 December 2005	:	
Priority Date: 03 January 2005	:	ON PETITION UNDER
Docket No.: 778-P-4-USA	:	
For: TUNNEL FOR CONDITIONING OF	:	37 CFR 1.137(b)
PRODUCTS, ESPECIALLY FOR	:	
STERILIZATION OF FOOD IN	:	
PREPACKAGED CONTAINERS	:	

Applicant's Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 04 August 2007 is **GRANTED**.

Applicant's indication that the delay was unintentional is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct understanding, applicant must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee or oath or declaration has not yet been paid.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the search fee, examination fee or oath or declaration are required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

2 5 JUL 2008

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WASHINGTON DC 20005

In re Application of	:	
Iida et al.	:	
Application No.: 11/883,746	:	
PCT No.: PCT/JP2006/302280	:	
Int. Filing Date: 09 February 2006	:	DECISION
Priority Date: 09 February 2005	:	
Attorney Docket No.: 12137-0008	:	
For: Two-Component Anti-Seizure Agent For Hot Metal Working Process, And Method Of Manufacturing Seamless Pipe Using Thereof	:	

This is in response to the correspondence filed on 07 March 2008.

DISCUSSION

This international application was filed on 09 February 2006 and claimed a priority date of 09 February 2005. The United States was designated. The International Bureau published the international application on 17 August 2006. The thirty month period for payment of the basic national fee in the United States expired as of midnight on 09 August 2007. On 06 August 2007, applicants filed *inter alia* the basic national fee.

On 10 January 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

Inspection of the declaration of the inventors filed on 07 March 2008 reveals that it nominates "Kazuhiro SHIMODA" in place of "SHIMODA, Kazumune" named in the published international application. It appears that the inventor may have considered the name appearing on the declaration to be correct, in that the declaration was in fact executed. In addition, counsel states that

> It is noted that on International Application Publication No. WO 2006/085599 A1, the fourth applicant is listed as "Kazumune Shimoda." Applicant confirms that this is incorrect and that the fourth applicant's name is actually "Kazuhiro Shimoda" as listed on the attached Declaration and Power of Attorney.

Counsel does not assert that this discrepancy arose from a typographic error or phonetic misspelling. In that this appears to be more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 (including the requisite $400.00 petition fee) is required to resolve the discrepancy in the nominated inventive entity in order for the declaration filed on 07 March 2008 to be accepted. *See* MPEP §§ 605.04(b) and 605.04(c). Such a petition should be accompanied by statement(s) made on the basis of first-

hand knowledge that the inventor in question named in the declaration is the same person as the inventor nominated in the published international application, and that the name appearing on the declaration document is the correct rendition of the relevant inventor's name.

DECISION

The declaration filed 07 March 2008 is **NOT ACCEPTED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application with respect to the national stage in the United States.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration

/George Dombroske/
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1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of	:	
Iida et al.	:	
Application No.: 11/883,746	:	
PCT No.: PCT/JP2006/302280	:	
Int. Filing Date: 09 February 2006	:	DECISION
Priority Date: 09 February 2005	:	
Attorney Docket No.: 12137-0008	:	
For: Two-Component Anti-Seizure Agent For Hot Metal Working Process, And Method Of Manufacturing Seamless Pipe Using Thereof	:	

This is in response to the petition under 37 CFR 1.182 filed on 02 September 2008.

DISCUSSION

In a Decision mailed on 25 July 2008, the declaration filed on 07 March 2008 was discussed as follows:

> *Inspection of the declaration of the inventors filed on 07 March 2008 reveals that it nominates "Kazuhiro SHIMODA" in place of "SHIMODA, Kazumune" named in the published international application. It appears that the inventor may have considered the name appearing on the declaration to be correct, in that the declaration was in fact executed. In addition, counsel states that*
>
> It is noted that on International Application Publication No. WO 2006/085599 A1, the fourth applicant is listed as "Kazumune Shimoda." Applicant confirms that this is incorrect and that the fourth applicant's name is actually "Kazuhiro Shimoda" as listed on the attached Declaration and Power of Attorney.
>
> *Counsel does not assert that this discrepancy arose from a typographic error or phonetic misspelling. In that this appears to be more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 (including the requisite $400.00 petition fee) is required to resolve the discrepancy in the nominated inventive entity in order for the declaration filed on 07 March 2008 to be accepted. See MPEP §§ 605.04(b) and 605.04(c). Such a petition should be accompanied by statement(s) made on the basis of first-hand knowledge that the inventor in question named in the declaration is the same person as the inventor nominated in the published international application, and that the name appearing on the declaration document is the correct rendition of the relevant inventor's name.*

In response, petitioner asserts that "the inventor named in the Declaration is the same person nominated in the published international application. Moreover, the name appearing on the Declaration document is the correct rendition of inventor Shimoda's entire name. The facts are set forth in the attached Statement of Facts, which is made based on a first hand knowledge

of the inventor in question." The attached "Statement of Facts," signed by Tetsuro Hoshino, states in part that "I have first hand knowledge that the inventor Kazuhiro Shimoda named in the Declaration is the same person as Kazumune Shimoda who is nominated in the PCT application. Moreover, the name appearing on the Declaration is the correct rendition of inventor Shimoda's name." In view of the totality of the evidence currently of record, it now would be appropriate to accept the inventor's name as it appears on the declaration filed on 07 March 2008.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **07 March 2008**.

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2 8 SEP 2007

David L. Cavanaugh
WILMER CUTLER PICKERING HALE
AND DORR LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006

In re Application of James BOHLIG et al. US Application No.: 11/883,758 PCT Application No.: PCT/US2005/024687 Int. Filing Date: 12 July 2005 Priority Date: 13 July 2004 Attorney Docket No.: 0105452.00203US2 For: SYSTEMS AND METHODS FOR SORTING RECYCLABLES AT A MATERIAL RECOVERY FACILITY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 06 August 2007, requesting revival of PCT/US2005/024687 for purposes of national stage entry into the United States of America.

BACKGROUND

On 12 July 2005, applicants filed international application PCT/US2005/024687, which designated the United States of America and claimed a priority date of 13 July 2004. Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 16 January 2007 (13 January 2007 was a Saturday and 15 January 2007 was a Holiday in the District of Columbia). This international application became abandoned with respect to the United States for failure to pay the required basic national fee prior to midnight on 16 January 2007. On 06 August 2007, applicants filed the instant petition.

DISCUSSION

37 CFR 1.137(b) provides in part:

"... A grantable petition under 37 CFR 1.137(b) must be accompanied by the following:

(1) The reply to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional;. . . ., and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section."

Regarding requirement (1), the petition is accompanied by the required reply in the form of the required basic national fee.

Regarding requirement (2), the requisite petition fee will be charged to Dep. Acct. # 08-0219.

Regarding requirement (3), the petition is accompanied by the required statement.

Regarding requirement (4), a terminal disclaimer is not required since this international application was filed after 08 June 1995.

DECISION

The petition to revive PCT/US2005/024687 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notice of Missing Requirements (Form DO/EO/905), which should indicate that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (703) 308-6459

10/01/2007 SBASHEIR 00000007 080219 11883758
Sale Ref: 00000009 DA#: 080219 11883758
01 FC:1453 1500.00 DA

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23 AUG 2007

Friedrich Kueffner
317 Madison Avenue, Suite 910
New York, New York 10017

In re Application of	:	
SCHULZ et al.	:	
Application No.: 11/883,822	:	DECISION ON PETITION
PCT No.: PCT/DE05/01535	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 01 September 2005	:	
Priority Date: 03 September 2004	:	
Attorney Docket No.: HKH-60PCT	:	
For: RESPIRATORY MASK	:	

The petition to revive under 37 CFR 1.137(b) filed 04 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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20 SEP 2007

Greer, Burns & Crain, LTD
300 South Wacker Drive
25th Floor
Chicago, IL 60606

In re Application of LENG, Luhao Application No.: 11/883,824 PCT No.: PCT/CN04/01066 Int. Filing Date: 22 September 2004 Priority Date: 19 May 2004 Attorney Docket No.: 1991.78740 For: FOLDING DESK	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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In Re Application of FIGGE et al. Application No.: 11/883,903 PCT No.: PCT/EP06/50726 Int. Filing Date: 07 February 2006 Priority Date: 07 February 2005 Attorney Docket No.: REG-07-1267 For: MICROORGANISMS COMPRISING ENZYMES EXPRESSED WITH LOW GAMMA-ELIMINATION ACTIVITY	:	DECISION

This is a decision on applicant's "Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 20 August 2008.

On 07 February 2006, applicant filed international application No. PCT/EP06/50726 which claimed a priority date of 07 February 2005 and which designated the United States. Thereafter, on 07 August 2007, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 08 August 2008, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 August 2007.

On 20 August 2008, applicant filed a Request for a Corrected Filing Receipt.

DISCUSSION

Applicant supplied a declaration under PCT Rule 4.17, which was executed by the inventors identified on the international application on 07 August 2007, the date on which all of the 35 U.S.C. 371 requirements were complete.

The 08 August 2008 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 August 2007, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED** as to the correction of the 35 U.S.C. 371 date of completion.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 08 August 2008 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 07 August 2007.

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1 1 JUN 2008

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32042
PATTON BOGGS LLP
8484 Westpark Drive
Suite 900
McLean, VA 22102

In re Application of
GUIMBERTEAU *et al*
U.S. Application No.: 11/883,935
PCT No.: PCT/EP2006/050784
Int. Filing Date: 08 February 2006
Priority Date: 08 February 2005
Attorney Docket No.: 022290.0181PTUS
For: ANTI-MISUSE MICROPARTICULATE ORAL DRUG FORM

DECISION

This decision is in response to applicants' "Petition Under 37 CFR § 1.47(a)" filed 17 April 2008.

BACKGROUND

On 19 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 17 April 2008, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the $130.00 surcharge fee; the $200.00 petition fee; a declaration signed on behalf of the nonsigning inventor; and Exhibits A - D.

DISCUSSION

Applicants claim that joint inventor Dr. Gerard Soula refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 19 March 2008.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors. All items have been satisfied.

Concerning item (1), the petition fee of $200.00 has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicants submitted evidence showing that the conduct of Dr. Soula constitutes a refusal to cooperate as described in section 409.03(d) of the MPEP. Moreover, the 37 CFR 1.47(a) applicants have submitted other evidence showing that a complete copy of the application was forwarded to Dr. Soula and Federal Express documents indicate that it was received by a person named SOULA on 19 November 2007. This is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets item (2) above.

With regards to item (3), the last known address of Dr. Soula was provided.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by two of the three named co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of both inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 February 2006 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 April 2008.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

11 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Dr. Gerard Soula
33 rue Nungesser
69330 Meyzieu
FRANCE

In re Application of
GUIMBERTEAU *et al*
U.S. Application No.: 11/883,935
PCT No.: PCT/EP2006/050784
Int. Filing Date: 08 February 2006
Priority Date: 08 February 2005
Attorney Docket No.: 022290.0181PTUS
For: ANTI-MISUSE MICROPARTICULATE ORAL DRUG FORM

Mr. Soula:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

U.S. Counsel: PATTON BOGGS LLP
8484 Westpark Drive
Suite 900
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UNITED STATES PATENT AND TRADEMARK OFFICE

0 4 DEC 2008

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
BLOHBERGER et al.	:	
Application No.: 11/883,953	:	
PCT No.: PCT/AT06/00053	:	DECISION ON
Int. Filing Date: 14 February 2006	:	
Priority Date: 15 February 2005	:	under 37 CFR 1.497(d)
Atty Docket No.:BLOHBERGER ET AL.-1PCT	:	
For: EVACUATION SYSTEM HAVING	:	
ESCAPE IDENTIFICATION LIGHTS	:	

This is a decision on applicant's' " Request to Change Inventorship Pursuant to 37 CFR 1.497(d)", filed on 29 September 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 July 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, were required.

On 23 July 2008, applicant filed a response to the Notification along with an executed declaration. On 05 September 2008, a Notification of Defective Response was mailed to applicant indicating that the declaration was not executed in accord with 37 CFR 1.497 (a) and (b). The inventor #2 identified on the declaration was not identified in the published international application.

On 29 September 2008, in response to the Notification of Defective Response, applicant filed a petition under 37 CFR 1.497(d) for correction of inventorship, to add Gottfried Grundler as inventor. In addition to the $130 petition fee, Petitioner provided the statement of the inventor Grundler as inventor in support of the correction of inventorship under 37 CFR 1.497(d). A copy of the declaration executed by the inventors was provided.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

Applicant has satisfied Items (1), (2) and Item (3) above.

Accordingly, applicant has now met all of the requirements to add Gottfried Grundler as co-inventor in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

CONCLUSION

The petition under 37 CFR 1.1497(d) to Add Inventor Gottfried Grundler in the above-captioned application is **GRANTED**.

The declaration, executed by Gottfried Grundler as a joint inventors in the above referenced application, is acceptable and in compliance with 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **31 July 2008.**

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1 9 MAR 2009

United States Patent and Trademark Office

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MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE IL 60532

In re Application of	:	
Grzegorzewska et al.	:	
Application No.: 11/883,960	:	
PCT No.: PCT/US2006/002568	:	
Int. Filing Date: 24 January 2006	:	DECISION
Priority Date: 08 February 2005	:	
Attorney Docket No.: A5-110 US	:	
For: Hermaphroditic Fibre Optical Connector System	:	

This is in response to the "Petition To Correct Inventorship" filed on 08 September 2008, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 24 January 2006, claimed an earlier priority date of 08 February 2005, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 August 2007. Applicants filed *inter alia* the basic national fee on 08 August 2007.

On 07 March 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

Inspection of the declaration filed on 08 September 2008 reveals that nominates two inventors, ANDREI and BELENKIY, who were not named in the published international application. The regulation most pertinent to this situation is 37 CFR 1.497(d). A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) 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, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)).

Regarding requirement (1), applicants have provided appropriate statements signed by inventors ANDREI and BELENKIY.

Regarding requirement (2), the $130.00 processing fee was paid on 08 September 2008.

Regarding requirement (3), inspection of the published international application and of the Application Data Sheet reflects that MOLEX INCORPORATED appears to enjoy an

assignment interest in this application. However, the instant submission is not accompanied by the written consent of the assignee, as required by 37 CFR 1.497(d)(3). Therefore, it would not be appropriate to accept the change of inventorship on the basis of the present record.

Further inspection of the declaration filed on 08 September 2008 reveals that it includes an un-initialed alteration of the ZIP code data pertaining to inventor ANDREI. In addition, the declaration appears to have been assembled by aggregating separately sheets into a single document. MPEP 201.03 explains in part that

> *While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).*

In view of this policy, it would not be appropriate to accept the declaration as filed on 08 September 2008.

DECISION

The declaration filed on 08 September 2008 is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application. No additional processing fee is required. Any such request for reconsideration should be entitled "Renewed Submission Under 37 CFR 1.497(d)."

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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29 JUN 2009

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MOLEX INCORPORATED
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In re Application of	:	
Grzegorzewska et al.	:	
Application No.: 11/883,960	:	
PCT No.: PCT/US2006/002568	:	
Int. Filing Date: 24 January 2006	:	DECISION
Priority Date: 08 February 2005	:	
Attorney Docket No.: A5-110 US	:	
For: Hermaphroditic Fibre Optical Connector System	:	

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 22 April 2009.

DISCUSSION

In a Decision mailed on 19 March 2009, the declaration filed on 08 September 2008 was not accepted, without prejudice, because

> Regarding requirement (3), inspection of the published international application and of the Application Data Sheet reflects that MOLEX INCORPORATED appears to enjoy an assignment interest in this application. However, the instant submission is not accompanied by the written consent of the assignee, as required by 37 CFR 1.497(d)(3). Therefore, it would not be appropriate to accept the change of inventorship on the basis of the present record.
>
> Further inspection of the declaration filed on 08 September 2008 reveals that it includes an un-initialed alteration of the ZIP code data pertaining to inventor ANDREI. In addition, the declaration appears to have been assembled by aggregating separately sheets into a single document. MPEP 201.03 explains... In view of this policy, it would not be appropriate to accept the declaration as filed on 08 September 2008.

In response, counsel has filed an "Assent of Assignee..." which asserts that Molex Incorporated "is the assignee of record of the entire interest" in this application, and that an assignment was submitted for recordation on 04 September 2008. The electronic records of the USPTO show an assignment as having been recorded on that date. The "Assent of Assignee..." indicates that the "assignee hereby assents to the petition for correction of inventorship filed on September 4, 2008," and is signed by Robert J. Zeitler as "Vice President and General Counsel." This document satisfies requirement (3).

Counsel has also provided a new declaration. Review of said declaration reveals that it is acceptable for purposes of satisfying 37 CFR 1.497(a) and (b), in view of the instant submission under 37 CFR 1.497(d).

DECISION

The declaration filed on 22 April 2009 is **ACCEPTED** under 37 CFR 1.497(d).

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 April 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Roland Schmid	: DECISION ON REQUEST FOR
Patent Number	: 7620518	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/883,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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07 SEP 2007

Hedman & Costigan P.C.
1185 Avenue of the Americas
New York, New York 10036-2646

In re Application of
WANG et al.
Application No.: 11/883,972
PCT No.: PCT/DE06/00164
Int. Filing Date: 02 February 2006
Priority Date: 03 February 2005
Attorney Docket No.: 1500-002
For: METHOD FOR PRODUCTION OF LOSARTAN

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 08 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the annexed national stage application, from August 2, 2007 until the filing of this Petition under 37 CFR 1.137(a) was unintentional" has been construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, Petitioner is required to provide a statement to that effect.

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/883,976	08/08/2007	Sumiya Nagatsuka	07478/LH	8546

7590 10/08/2009
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER
BELLA, MATTHEW C

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
10/08/2009	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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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

MAILED

APR 02 2010

OFFICE OF PETITIONS

In re Application of :
Koji Matsushita et al :
Application No. 11/883,998 : ON PETITION
Filed: August 9, 2007 :
Attorney Docket No. 46884-5590 (409249)

This is a decision on the petition, filed March 31, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 26, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2889 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

United States Patent and Trademark Office

24 NOV 2008

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ALEXANDRIA VA 22314-1176

In re Application of Chavez et al. Application No.: 11/884,006 PCT No.: PCT/IB2006/000135 Int. Filing Date: 27 January 2006 Priority Date: 14 February 2005 Attorney Docket No.: CHAV3002/JEK For: Medication Delivery Device	DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(a) filed on 22 September 2008.

BACKGROUND

This international application was filed on 27 January 2006, claimed an earliest priority date of 14 February 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 17 August 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 August 2007. Applicants filed *inter alia* the basic national fee on 09 August 2007.

On 21 July 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

Petitioner alleges that joint inventor Enrico Chavez has refused to execute the declaration. A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, the $200.00 petition fee has been paid.

Regarding **requirement (2)**, petitioner has provided a "Declaration of Bernard Mayjonade...," who indicates that he sent a declaration and a copy of the application papers to Mr. Chavez' last-known address on 02 November 2007, and that he sent a follow-up letter on 13 December 2007, but Mr. Chavez has not returned an executed oath or declaration. The "Declaration..." is accompanied by copies of the letters and associated postal receipts. Based on the totality of the evidence of record, it would be appropriate to conclude that Mr. Chavez has refused to execute the application within the meaning of 37 CFR 1.47(a).

Regarding **requirement (3)**, the petition includes a statement of the last known address of the non-signing inventor.

Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 22 September 2008 reveals that it has been signed on behalf of Mr. Chavez by Mr. Pongpairochana, but not by the other joint inventor, Sandrine Piotelat. However, as explained at MPEP 409.03(a), "All the available joint inventors must" execute the oath or declaration on behalf of the non-signing joint inventor (or, all must leave the non-signing inventor's signature block blank) in order for the oath or declaration to be accepted. As such, it would not be appropriate to accept the declaration as filed on 22 September 2008.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
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Office of PCT Legal Administration
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1 6 MAR 2009

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ALEXANDRIA VA 22314-1176

In re Application of	:	
Chavez et al.	:	
Application No.: 11/884,006	:	DECISION
PCT No.: PCT/IB2006/000135	:	
Int. Filing Date: 27 January 2006	:	ON
Priority Date: 14 February 2005	:	
Attorney Docket No.: CHAV3002/JEK	:	PETITION
For: Medication Delivery Device	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 26 January 2009.

DISCUSSION

In a Decision mailed on 24 November 2008, the petition under 37 CFR 1.47(a) filed on 22 September 2008 was dismissed, without prejudice, because

> Regarding requirement (4), inspection of the declaration of inventorship filed on 22 September 2008 reveals that it has been signed on behalf of Mr. Chavez by Mr. Pongpairochana, but not by the other joint inventor, Sandrine Piotelat. However, as explained at MPEP 409.03(a), "All the available joint inventors must" execute the oath or declaration on behalf of the non-signing joint inventor (or, all must leave the non-signing inventor's signature block blank) in order for the oath or declaration to be accepted. As such, it would not be appropriate to accept the declaration as filed on 22 September 2008.

In response, petitioner has submitted a newly executed declaration. Inspection of the declaration reveals that it appears to have been assembled from sheets separately signed by inventors Pioletat and Pongpairochana. MPEP 201.03 explains in part that

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In view of this policy, it would not be appropriate to accept the declaration as filed. Petitioner is advised to submit complete copies of the declaration documents as actually signed by the available inventors.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
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2 0 JUL 2009

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In re Application of	:	
Chavez et al.	:	
Application No.: 11/884,006	:	DECISION
PCT No.: PCT/IB2006/000135	:	
Int. Filing Date: 27 January 2006	:	ON
Priority Date: 14 February 2005	:	
Attorney Docket No.: CHAV3002/JEK	:	PETITION
For: Medication Delivery Device	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 18 May 2009.

DISCUSSION

In a Decision mailed on 16 March 2009, the renewed petition under 37 CFR 1.47(a) filed on 26 January 2009 was dismissed, without prejudice, because

> ... petitioner has submitted a newly executed declaration. Inspection of the declaration reveals that it appears to have been assembled from sheets separately signed by inventors Pioletat and Pongpairochana. MPEP 201.03 explains in part that...
>
> In view of this policy, it would not be appropriate to accept the declaration as filed. Petitioner is advised to submit complete copies of the declaration documents as actually signed by the available inventors.

In response, petitioner now has submitted an acceptable declaration document signed by inventors Piotelat and Pongpairochana on behalf of themselves and non-singing joint inventor Chavez. As such, all of the requirements of 37 CFR 1.47(a) now have been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **18 May 2009** (the date the declaration was filed).

/George Dombroske/
George Dombroske
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2 0 JUL 2009

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Enrico Chavez
69, rue Louis de Savoie
1110 Morges
SWITZERLAND

In re Application of
Chavez et al.
Application No.: 11/884,006
PCT No.: PCT/IB2006/000135
Int. Filing Date: 27 January 2006
Priority Date: 14 February 2005
Attorney Docket No.: CHAV3002/JEK
For: Medication Delivery Device

Dear Mr. Chavez:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Enrico CHAVEZ) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/IB2006/000135 and was filed on January 27, 2006 in the names of Enrico CHAVEZ, Sandrine PIOLETAT and Vincent PONGPAIROCHANA for the invention entitled MEDICATION DELIVERY DEVICE. The national stage application number is 11/884,006 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of May 18, 2009.

16 JUL 2008

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ALEXANDRIA VA 22314-1176

In re Application of	:	
CHAVEZ, et al.	:	
PCT No.: PCT/IB06/00262	:	DECISION ON PETITION
Application No.: 11/884,007	:	
Int. Filing Date: 23 January 2006	:	UNDER 37 CFR 1.47(a)
Priority Date: 14 February 2005	:	
Atty. Docket No.: CHAV3001/JEK	:	
For: MEDICATION DELIVERY DEVICE	:	

This decision is in response to applicant's petition under 37 CFR § 1.47 filed 20 June 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 January 2006, applicant filed international application PCT/IB06/00262 which claimed priority to an earlier application filed 14 February 2005. A copy of the international application was communicated from the International Bureau (IB) to the United States on 17 August 2006. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 August 2007.

On 09 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1), an application data sheet, an Information Disclosure Statement and a preliminary amendment.

On 20 March 2008, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 20 June 2008, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Enrico Chavez accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. The response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 23 January 2006 under 35 U.S.C. 363, and will be given a date of **20 June 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
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Fax: (571) 273-0459

16 JUL 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Enrico Chavez
69, rue Louis de Savoie
1110 Morges
SWITZERLAND

In re Application of
CHAVEZ, et al.
PCT No.: PCT/IB06/00262
Application No.: 11/884,007
Int. Filing Date: 23 January 2006
Priority Date: 14 February 2005
Atty. Docket No.: CHAV3001/JEK
For: MEDICATION DELIVERY DEVICE

Dear Mr. Chavez:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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J. Ernest Kenney
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UNITED STATES OF AMERICA

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24 SEP 2007

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of: SHIGETA, Yasushi U.S. Application No.: 11/884,021 PCT No.: PCT/JP2005/003789 International Filing Date: 04 March 2005 Priority Date: 19 March 2004 Atty Docket No.: 08178.0050 For: CARD READING DEVICE	DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 09 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497, a translation of the international application into English, and payment of the surcharge and processing fees for filing the declaration and translation later than thirty months after the priority date.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 August 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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Date Mailed: October 21, 2008

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

Applicant: Shigeta
Appl. No.: 11/884,021
Filing Date: August 9, 2007
Title: CARD READER
Attorney Docket No.: 03125/36
Pub. No.: US 2008/0224394 A1
Pub. Date: September 18, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on September 4, 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: 10/21/2008 KKING1
10/20/2008 INTEFSW 00002826 011785 11884021
02 FC:1505 300.00 CR

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Alexandria, VA 22313-1450
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2 4 NOV 2008

Richard F. Jaworski
c/o Cooper & Dunham
1185 Avenue of the Americas
New York NY 10036

In re Application of	:	
HEIGHT et al.	:	
Application No.: 11/884,039	:	DECISION
PCT No.: PCT/CH2006/000084	:	
Int. Filing Date: 09 February 2006	:	
Priority Date: 11 February 2005	:	
Attorney Docket No.: 796/78265	:	
For: ANTIMICROBIAL AND ANTIFUNGAL	:	
POWDERS MADE BY FLAME SPRAY PYROLYSIS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 10 July 2008 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 09 February 2006, applicants filed international application PCT/CH2006/000084, which designated the United States and claimed a priority date of 11 February 2005. A copy of the international application was communicated from the International Bureau to the USPTO on 17 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 August 2007 (11 August 2007 being a Saturday).

On 08 August 2007, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 08 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 10 July 2008, applicants the instant petition under 37 CFR 1.47(a) which was accompanied by, a copy of a letter to non-signing inventor Sotiris E. Pratsinis dated 10 April 2008, a copy of a letter from Mr. Pratsinis dated 17 April 2008, and a statement of facts from Matthias Holling.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to item (1), the fee has been paid.

As to item (2), it has been established that the non-signing inventor Sotiris E. Pratsinis has been presented with the application papers and refuses to execute the application.

As to item (3), a statement of the last known address of the non-signing inventor has been provided.

As to item (4), a declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor has been provided.

Declaration of Inventors

The declaration of the inventors filed 10 July 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Sotiris E. Pratsinis
Auroastrasse 73
8032 Zurich
Switzerland

In re Application of
HEIGHT et al.
Application No.: 11/884,039
PCT No.: PCT/CH2006/000084
Int. Filing Date: 09 February 2006
Priority Date: 11 February 2005
Attorney Docket No.: 796/78265
For: ANTIMICROBIAL AND ANTIFUNGAL POWDERS MADE BY FLAME SPRAY PYROLYSIS

Dear Mr. Pratsinis:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Richard F. Jaworski
c/o Cooper & Dunham
1185 Avenue of the Americas
New York NY 10036

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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite1200
Washington, DC 20006

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of
STEFANO CALABRO
Application No. 11/884,063
Filed: August 9, 2007
Attorney Docket No. **2004P21277 (NSN)**

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 May 31, 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 87133 has been revoked by the applicants of the patent application on May 27, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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P.O. Box 1450
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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUN 3 0 2010

OFFICE OF PETITIONS

In re Application of Josef Forster Application No. 11/884,064 Filed: August 9, 2007 Attorney Docket No. 2005P02619(NSN-not_xsfr)	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 2, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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2 8 APR 2008

OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

In re Application of	:	
BARBA, et al.	:	
Application No.: 11/884,087	:	
PCT No.: PCT/GB06/50031	:	DECISION ON PETITION
Int. Filing Date: 08 February 2006	:	
Priority Date: 08 February 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: NC-10023-PCT.US	:	
For: DIHYDROIMIDAZOTHIAZOLE DERIVATIVES	:	

The petition to revive under 37 CFR 1.137(b) filed 15 April 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided proper deposit account information for the charging of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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21 SEP 2007

Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of HENGL et al. Application No.: 11/884,124 PCT No.: PCT/FR03/02223 Int. Filing Date: 15 July 2003 Priority Date: 17 July 2002 Attorney Docket No.: 0573-1053 For: DEVICE AND METHOD FOR WASTE BREAKDOWN AND DISINFECTION OR TREATMENT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 10 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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DEC 09 2009

OFFICE OF PETITIONS

Applicant: Tushar A. Kshirsagar, et al.
Appl. No.: 11/884,153
International Filing Date: February 10, 2006
Title: OXIME AND HYDROXYLAMINE SUBSTITUTED IMIDAZO[4,5-C] RING COMPOUND AND METHODS
Pub. No.: US 2009/0062328 A1
Pub. Date: March 5, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) or (a), received on April 27, 2009, for the above-identified application.

The request is granted.

Applicant requests that the application be republished because the patent application publication contains a material error, as it incorrectly listed information in claim 1 that did not belong.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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07 SEP 2007

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, Virginia 22040-0747

In re Application of
ISOMURA, Ayumu
Application No.: 11/884,202
PCT No.: PCT/JP05/23202
Int. Filing Date: 13 December 2005
Priority Date: 17 December 2004
Attorney Docket No.: 0879-0931PUS1
For: COMPOSITE PHOTOGRAPH CREATION SYSTEM AND COMPOSITE PHOTOGRAPH CREATION APPARATUS

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

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0 1 OCT 2007

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of Jorgensen Application No.: 11/884,206 PCT No.: PCT/DK06/00003 Int. Filing Date: 04 January 2006 Priority Date: 08 February 2005 Attorney Docket No.: 66905-037-7 For: Method And Stand For Handling Of Liquid Dispensers:	DECISION

The petition to revive under 37 CFR 1.137(b) filed on 13 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee. The petition fee is being charged to Deposit Account 04-2223, per the authorization included in the Transmittal Letter accompanying the petition. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 August 2007** (the date a declaration compliant with 37 CFR 1.497(a) and (b) was filed).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

10/01/2007 SBASHEIR 00000003 042223 11884206
Sale Ref: 00000004 DA#: 042223 11884206
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14 APR 2009

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ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO IL 60606-6306

In re Application of:	:	
KINUGASA, Yukihisa, et al.	:	DECISION
U.S. Application No.: 11/884,214	:	
PCT No.: PCT/JP2006/303611	:	
International Filing Date: 27 February 2006	:	
Priority Date: 30 March 2005	:	
Atty Dkt No.: 075834.00809	:	
For: METHOD FOR DRIVING DEVICE HAVING CAPACITY IMPEDENCE, APPARATUS ADOPTING THE METHOD AND IMAGE-PICKUP APPARATUS	:	

This communication is issued in response to the correspondence filed by applicants on 18 February 2009 requesting a review and correction of the fees charged and refunded by the USPTO in the present application. No petition fee is required.

BACKGROUND

On 27 February 2006, applicants filed international application PCT/JP2006/303611. The application claimed a priority date of 30 March 2005, and it designated the United States. On 26 October 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 September 2007.

On 30 September 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, an English translation of the international application and payment of the following fees: basic national fee ($300); search fee ($400); examination fee ($200); fee for inclusion of a multiple dependent claim fee ($360); fee for inclusion of one additional independent claim over three ($200); application size fee ($500); and the fee for inclusion of eight additional claims over twenty ($400).

On 24 April 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that the following additional materials were required: (1) an oath or declaration in compliance with 37 CFR 1.497;

(2) the $130 surcharge for filing the oath or declaration later than thirty months after the priority date; (3) $150 for inclusion of three additional over 20 (i.e., 31 total claims).

On 24 June 2008, applicants filed an executed declaration accompanied by the authorization to charge Deposit Account No. 50-3891 required fees and a second preliminary amendment that amended the claims to remove two claims.[1]

On 17 February 2009, the USPTO refunded to applicants' Deposit Account $1,100 in previously paid fees. At the same time the USPTO charged applicants' Deposit Account the $130 surcharge for filing the declaration later than thirty months after the priority date and $300 under the code for additional claims over twenty.

On 18 February 2009, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c) were satisfied as of 24 June 2008. On the same date, a filing receipt was mailed identifying the 35 U.S.C. 371(c) date as 24 June 2008.

On 18 February 2009, applicants filed the correspondence considered herein requesting a review and correction of the fees charged and refunded by the USPTO in the present application. The correspondence specifically requests that the USTO recharge applicants for the $1,100 in fees refunded on 17 February 2009 and that USPTO refund applicants $150 of the $300 additional claims fee charged on 17 February 2009.

On 26 February 2009, the USPTO charged Deposit Account No. 50-3891 an additional $100 for additional claims over twenty.

DISCUSSION

The application file at present includes payment of the following required fees that are not at issue herein: basic national fee ($300); search fee ($400); examination fee ($200); fee for inclusion of a multiple dependent claim ($360); surcharge for filing the declaration later than thirty months after the priority date ($130); and the fee for recording an assignment ($40).

Upon review, the following additional fees are required in the present application: fee for inclusion of one additional independent claim over three ($200); application size fee ($500); and the fee for inclusion of eight additional claims over twenty ($400).[2] Taking into account applicants' original fee payment on 10 August 2007, the refunds and additional charges made on 17 February 2009, and the additional charge made on 26 February 2009, the application file contains the following with respect to these additional required fees: $400 for the inclusion of eight additional claims over twenty. Accordingly, in order to complete payment of the fees

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[1] Specifically, applicants amended claim 8, which previously included a multiple dependent claim that counted as three claims, to remove the multiple dependency.

[2] Applicant notes in the present correspondence that the PTO-875 in the application file indicates that the application contains 31 total claims. However, a revised count of the claims which properly takes into account the second preliminary amendment filed in response to the Form PCT/DO/EO/905 concludes that the application contains 28 total claims.

required at the present time, Deposit Account No. 50-3891 must be re-charged $700 for the following outstanding fees: fee for inclusion of one additional independent claim over three ($200); application size fee ($500).

CONCLUSION

Applicants' request for review of and correction of the fees charged and refunded herein is **GRANTED** to the following extent, as discussed in detail above:

Deposit Account No. 50-1505 will be charged again for the following previously-paid fees that were refunded to applicants: $200 for inclusion of one additional independent claim over three; and $500 as the application size fee.

Based on the above corrections, applicants will have paid the fees required for the present application at this time.

The application will be referred to GAU 2819 for examination.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

2 1 MAR 2008

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ALEKSANDR SMUSHKOVICH
POB 140505
BROOKLYN NY 11214

In re Application of	:	
GORB et al.	:	DECISION ON
Application No.: 11/884,249	:	
PCT No.: PCT/UA2006/000006	:	PAPERS
Int. Filing Date: 07 February 2006	:	
Priority Date: None	:	UNDER 37 CFR 1.42
Attorney's Docket No.: None	:	
For: ROTARY INTERNAL COMBUSTION ENGINE	:	

This is a decision on the submission filed by applicants on 13 August 2007, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in the declaration that inventor Viktor GORB is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 07 February 2006, applicants filed international application PCT/UA2006/000006 which designated the U.S. and did not claim a priority date. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 August 2007. The thirty-month period for paying the basic national fee in the United States expires at midnight on 07 August 2008.

On 13 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a declaration of inventors. The indication in the declaration that Victor GORB is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the *full name and citizenship of the deceased inventor* (37 CFR 1.497(a)(3)).

Additionally, the declaration of the inventors filed 13 August 2007 is not in compliance with 37 CFR 1.497(a)-(b). There is a difference in names in the named inventors between the

published international application (Olexander Viktorovych GORB; Viktor Mykalayovich GORB) and the declaration of the inventors (Oleksander Viktorovych GORB; Viktor GORB). Regarding the first named inventor, if the difference is a typographical or transliteration error in the first name as indicated in the international application, an acceptable explanation is required. Regarding the second named inventor and the missing middle name, the difference in names is presumed not to be a name change or a change of inventors or a typographical error. The name Viktor GORB is presumed to be a shortened version of the name Viktor Mykalayovich GORB and these names are construed to designate the same person. (If this interpretation is incorrect, applicants are required to provide a written notification of this fact to the Office of PCT Legal Administration *immediately*.)

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 and an explanation of the difference in the first name of the first inventor between the international application and the declaration of inventors within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

2 1 JUN 2010

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ALEKSANDR SMUSHKOVICH
POB 140505
BROOKLYN NY 11214

In re Application of	:	
GORB et al.	:	DECISION ON
Application No.: 11/884,249	:	
PCT No.: PCT/UA2006/000006	:	PAPERS
Int. Filing Date: 07 February 2006	:	
Priority Date: None	:	UNDER 37 CFR 1.42
Attorney's Docket No.: None	:	
For: VIKTOR GORB'S ROTARY INTERNAL	:	
COMBUSTION ENGINE	:	

This is a decision on the submission filed by applicants on 10 April 2008, which has properly been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 07 February 2006, applicants filed international application PCT/UA2006/000006 which designated the U.S. and did not claim a priority date. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 August 2007. The thirty-month period for paying the basic national fee in the United States expires at midnight on 07 August 2008.

On 13 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a declaration of inventors. The indication in the declaration that Victor GORB is deceased was properly treated as a request for status under 37 CFR 1.42.

On 21 March 2008, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. The decision also indicated that there was a difference in names in the first-named inventor between the published international application (Olexander Viktorovych GORB) and the declaration of the inventors (Oleksander Viktorovych GORB) and indicated that if the difference was a typographical or transliteration error in the first name as indicated in the international application, an acceptable explanation was required.

On 10 April 2008, applicants filed a new declaration of inventors, which has properly been treated as a renewed request for status under 37 CFR 1.42.

On 05 August 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 10 April 2008 and a 35 U.S.C. 371 date of 10 April 2008.

DISCUSSION

The declaration of inventors filed 10 April 2008 is not in compliance with 37 CFR 1.497(a)-(b) because it does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the *full name and citizenship of the deceased inventor* (37 CFR 1.497(a)(3)). Thus, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were not completed as of the 371 dates indicated in the NOTIFICATION OF ACCEPTANCE mailed 05 August 2008. Accordingly, NOTIFICATION OF ACCEPTANCE mailed 05 August 2008 is hereby VACATED.

In order to correct the defect set forth above, applicants should provide (1) a declaration of inventors (Form PTO/SB/01) containing all of the required information including the names of both inventors, all of the required information for Olexander Viktorovych Gorb (citizenship, residence, and mailing address) and at least the citizenship of the deceased inventor Viktor Mykalayovich GORB and (2) a Declaration Supplemental Sheet for Legal Representatives (Form PTO/SB/02LR) identifying Viktor Mykalayovich GORB as the deceased inventor and identifying the legal representative as well as the citizenship, mailing address, and residence of the legal representative.

It is noted that there is no difference in names of the named inventors between the published international application and the declaration of inventors filed 10 April 2008.

CONCLUSION

For the reasons set forth above, the NOTICE OF ACCEPTANCE OF APPLICATION mailed05 August 2008 is VACATED.

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD

FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

Applicant	: Jan Bruckner	: DECISION ON REQUEST FOR
Patent Number	: 7628124	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/884,284	: 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 **145** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Falk et al.	:	DECISION ON PETITION
Application No. 11/884,295	:	TO WITHDRAW
Filed: May 28, 2008	:	FROM RECORD
Attorney Docket No. 2005P02897 (NSN)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 2, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

2 0 AUG 2008

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AGERE
LERNER, DAVID ET AL.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Application of BACHMAN et al	:	
U.S. Application No.: 11/884,328	:	
PCT Application No.: PCT/US2006/006673	:	
Int. Filing Date: 24 February 2006	:	DECISION
Priority Date Claimed: 24 February 2005	:	
Attorney Docket No.: AGERE 3.3-072	:	
For: STRUCTURE AND METHOD FOR	:	
FABRICATING FLIP CHIP DEVICES	:	

This is in response to applicant's "Response to Notification of Defective Response / Petition to Withdraw Notification of Defective Response" filed 25 July 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 24 February 2006, applicant filed international application PCT/US2006/006673, which claimed priority of an earlier United States application filed 24 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 24 August 2007.

On 13 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 01 April 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 30 May 2008, applicant filed executed declarations.

On 26 June 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that a $130.00 surcharge for filing the declarations after thirty months from the priority date must be submitted.

On 25 July 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declarations filed 30 May 2008 were accompanied by an authorization to charge the requisite $130.00 surcharge to Deposit Account No. 12-1095. Accordingly, the Notification of Defective Response was sent in error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 26 June 2008 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 February 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 May 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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12 SEP 2007

Jones Day
222 East 41st St
New York, New York 10017

In re Application of
SOMMADOSSI et al.
Application No.: 11/884,414
PCT No.: PCT/US05/34786
Int. Filing Date: 26 September 2005
Priority Date: 24 September 2004
Attorney Docket No.: 11874-078-999
For: METHODS AND COMPOSITIONS FOR TREATING FLAVIVIRUSES, PESTIVIRUSES AND HEPACIVIRUS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

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07 SEP 2007

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of BOETTCHER	:	
U.S. Application No.: 11/884,428	:	
PCT Application No.: PCT/DE2004/001834	:	DECISION
Int. Filing Date: 18 August 2004	:	
Priority Date Claimed: none	:	
Attorney Docket No.: F-9527	:	
For: SCREW-IN ENOSSAL DENTAL IMPLANT	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 August 2007.

BACKGROUND

On 18 August 2004, applicant filed international application PCT/DE2004/001834. A copy of the international application was communicated to the USPTO from the International Bureau on 23 February 2006. The thirty-month period for paying the basic national fee in the United States expired on 18 February 2007.

International application PCT/DE2004/001834 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 August 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a translation of the international application into English must be filed.

Bryan Lin
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10 NOV 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

In re Application of: HUANG, Su, et al. U.S. Application No.: 11/884,464 PCT No.: PCT/SG2005/000045 International Filing Date: 17 February 2005 Priority Date: None claimed Atty Docket No.: 202049-300 For: METHOD AND APPARATUS FOR EDITING THREE-DIMENSIONAL IMAGES	DECISION ON REQUEST TO CORRECT INVENTOR'S NAME

This decision is issued in response to the "Petition To The Director Under 37 CFR 1.181" filed 08 October 2008, treated herein as a request to correct a spelling error in one of the inventor's names. No petition fee is required.

BACKGROUND

On 17 February 2005, applicants filed international application PCT/SG2005/000045. The international application did not claim an earlier priority date, and it designated the United States. On 24 August 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 17 August 2007.

The published international application identified the second inventor as Wieslaw Lucjian NOWINSKI, as did the declaration filed during the international phase pursuant to PCT Rule 4.17(iv).

On 16 August 2007, applicants filed a Transmittal Letter requesting entry into the U.S. national stage for international application PCT/SG2005/000045 accompanied by, among other materials, payment of the basic national fee.

On 06 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) and a filing receipt. The filing receipt identified the second inventor as Wieslaw Lucjian NOWINSKI.

On 08 October 2008, applicants filed the "Petition To The Director Under 37 CFR 1.181" considered herein. The submission requests correction of the middle name of the second

inventor from Lucjian to Lucjan, indicating that the name was misspelled in the international application.

DISCUSSION

Section 605.04(b) of the MPEP states the following:

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Here, based on applicants' statements in the present submission, the error in the second inventor's name is accepted as a typographical error which may be corrected without the need of a petition. Accordingly, the name of record for the second inventor will be corrected to Wieslaw Lucjan NOWINSKI, as requested.

As noted in the MPEP, it is suggested that applicants submit an Application Data Sheet (ADS) containing the correct spelling of the inventors' names, so as to insure that any patent issued herein will reflect the correct spelling of the inventors' names.

CONCLUSION

Applicants' request to correct the spelling of the second inventor's name is **GRANTED**. The name of record for the second inventor is accepted as Wieslaw Lucjan NOWINSKI.

Specifically, the spelling of record for the second inventor's middle name is hereby corrected from Lucjian to Lucjan.

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Patrick G. Burns
300 South Wacker Drive
Suite 2500
Chicago, IL 60606

7/3/08

In re Application of	:	DECISION ON REQUEST TO
Junji Ishizuka et al.	:	PARTICIPATE IN PATENT
Application No. 11/884,508	:	PROSECUTION HIGHWAY
Filed: Aug. 16, 2007	:	PROGRAM AND PETITION
Attorney Docket No. 4386.78836	:	37 CFR 1.102(d)
For: Shot Pump and Variable-Speed-Type Two-Liquid Metering and Mixing Apparatus	:	

This is a decision on the Request to Participate in Patent Prosecution Highway Program and the petition under 37 CFR 1.102(d), filed May 28, 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. Receipt of the IDS and a copy of Japanese patent publications are acknowledged. 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 Devon Kramer, SPE of Art Unit 3746, at 571-272-7118.

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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23 MAR 2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
HÄMÄLÄINEN et al.	:	
Application No.: 11/884,533	:	DECISION
PCT No.: PCT/FI05/50454	:	
Int. Filing Date: 08 December 2005	:	ON PETITION UNDER
Priority Date: 18 February 2005	:	
Attorney Docket No.: ARC-227-163	:	37 CFR 1.182

For: LOW ENERGY, NON-FAT MILK BEVERAGE OF HIGH CALCIUM CONTENT...

This is a decision on applicants' "PETITION UNDER 37 CFR 1.182" to change the name of inventor filed in the United States Patent and Trademark Office (USPTO) on 07 January 2009.

Applicants request that the application reflect joint inventor Tiina Tervala's name change to Tiina Hämäläinen. The $400 petition fee has been paid.

Applicant submitted the petition under 37 CFR 1.182 along with the declaration of Tiina Tervala. Applicant states that her name change to Tiina Hämäläinen is due to her marriage.

For the above reasons, the declaration submitted on 07 January 2009 now meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable.

The petition under 37 CFR 1.182 to change the inventor's name to Tiina Hämäläinen is **GRANTED**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

2 6 JUN 2008

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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

In re Application of: CASTAN, Catherine, et al. U.S. Application No.: 11/884,534 PCT No.: PCT/EP2006/060158 International Filing Date: 21 February 2006 Priority Date: 21 February 2005 Atty's Docket No.: 022290.0182PTUS For: ORAL PHARMACEUTICAL FORM OF LOSARTAN	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47" filed 15 May 2008. Applicants have paid the required petition fee.

BACKGROUND

On 21 February 2006, applicants filed international application PCT/EP2006/060158. The international application claimed a priority date of 21 February 2005, and it designated the United States. On 24 August 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 21 August 2007.

On 17 August 2007, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 09 April 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 15 May 2008, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge, a partially executed declaration, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Gerard SOULA, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have provided the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicants have filed a declaration executed by three of the four inventors of record which contains an unsigned signature block for the non-signing inventor. This declaration can be accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided firsthand statements, accompanied by supporting documents, demonstrating that a request for signature, accompanied by a copy of the complete application, has been forwarded to the non-signing inventor at his last known address, that the materials were received, and that the inventor has failed to provide the requested signature. These materials provide an acceptable showing that the non-signing inventor has refused to execute the declaration. Item (4) is therefore satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of non-signing inventor Gerard SOULA.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 15 May 2008.

Richard M. Ross
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Office of PCT Legal Administration
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2 6 JUN 2008

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Mr. Gerard SOULA
33 rue Nungesser
69330 Meyzieu
FRANCE

In re Application of: CASTAN, Catherine, et al.
U.S. Application No.: 11/884,534
PCT No.: PCT/EP2006/060158
International Filing Date: 21 February 2006
Priority Date: 21 February 2005
Atty's Docket No.: 022290.0182PTUS
For: ORAL PHARMACEUTICAL FORM OF LOSARTAN

Dear Mr. SOULA:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Telephone: (571) 272-3296
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Counsel Of Record:
PATTON BOGGS LLP
8484 WESTPARK DRIVE
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2 8 JUL 2008

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MCLEAN VA 22102

In re Application of	:	
GUIMBERTEAU et al.	:	
Application No.: 11/884,549	:	DECISION
PCT No.: PCT/EP2006/060159	:	
Int. Filing Date: 21 February 2006	:	
Priority Date: 21 February 2005	:	
Attorney Docket No.: 022290.0183PTUS	:	
For: MULTIMICROPARTICULATE ORAL	:	
PHARMACEUTICAL FORM WITH MODIFIED	:	
RELEASE OF ANGIOTENSIN II RECEPTOR	:	
ANTAGONISTS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 17 April 2008 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 21 February 2006, applicants filed international application PCT/EP2006/060159, which designated the United States and claimed a priority date of 21 February 2005. A copy of the international application was communicated from the International Bureau to the USPTO on 24 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2007.

On 17 August 2007, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 17 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 April 2008, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a copy of a letter from Lacy Kolo to non-signing inventor Gerard Soula dated 18 October 2007, a declaration of facts by Justin Royer, a

copy of a Tracking Update from FedEx dated 23 October 2007, a copy of a letter from Lacy Kolo to non-signing inventor Gerard Soula dated 15 November 2007, a declaration of facts by Jody Mazzarese, a copy of a proof of delivery from FedEx dated 30 November 2007.

DISCUSSION

Declaration of Inventors

37 CFR 1.41(a)(4) states:

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 17 April 2008 does not list the inventorship set forth in the international application. The declaration identifies three inventors while the international application identifies four inventors. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that an inventor has been deleted does not appear in the file. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 17 April 2008 is not sufficient.

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1) and (3) have been met.

Item (2) has not been satisfied. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." Here, it is not clear whether Mr. Soula was presented with a correct copy of the declaration of inventors. The copy of the declaration of inventors filed 17 April 2008 identifies only three of the four inventors indicated in the international application. Presumably, Mr. Soula was presented with this same declaration.

Item (4) has not been met. The declaration submitted 17 April 2008 is not in compliance with 37 CFR 1.497(a)-(b) because it does not identify all of the inventors.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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9 JUL 2009

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In re Application of	:	
CASTAN et al.	:	
Application No.: 11/884,549	:	DECISION
PCT No.: PCT/EP2006/060159	:	
Int. Filing Date: 21 February 2006	:	
Priority Date: 21 February 2005	:	
Attorney Docket No.: 022290.0183PTUS	:	
For: MULTIMICROPARTICULATE ORAL	:	
PHARMACEUTICAL FORM WITH MODIFIED	:	
RELEASE OF ANGIOTENSIN II RECEPTOR	:	
ANTAGONISTS	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 27 February 2009 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 21 February 2006, applicants filed international application PCT/EP2006/060159, which designated the United States and claimed a priority date of 21 February 2005. A copy of the international application was communicated from the International Bureau to the USPTO on 24 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2007.

On 17 August 2007, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 17 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 April 2008, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a copy of a letter from Lacy Kolo to non-

signing inventor Gerard Soula dated 18 October 2007, a declaration of facts by Justin Royer, a copy of a Tracking Update from FedEx dated 23 October 2007, a copy of a letter from Lacy Kolo to non-signing inventor Gerard Soula dated 15 November 2007, a declaration of facts by Jody Mazzarese, a copy of a proof of delivery from FedEx dated 30 November 2007.

On 28 July 2008, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. The decision also indicated that the declaration filed 17 April 2008 does not list the inventorship set forth in the international application because the declaration identifies three inventors while the international application identifies four inventors.

On 27 February 2009, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a five-month extension of time, two declarations of inventors, two additional declarations of facts by Jody Mazzarese, and a copy of a proof of delivery from FedEx dated 20 February 2009. The submission also includes a request to correct inventorship under 37 CFR 1.48(a), which has properly been treated as a petition under 37 CFR 1.497(d).

DISCUSSION

Petition Under 37 CFR 1.497(d)

The declarations of inventors filed 27 February 2009 now lists the same inventorship as set forth in the international application. Accordingly, the petition under 37 CFR 1.497(d) is moot.

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 28 July 2008, items (1) and (3) have been met.

Item (2) has now been met as well. It has been established that Mr. Soula was presented with a copy of the application papers including a correct declaration of inventors and the specification (statement of Jody Mazzarese and proof of delivery). Mr. Soula's conduct constitutes a refusal to sign.

Item (4) has now been met as well.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.497(d) is **DISMISSED** as **MOOT**.

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **27 February 2009**.

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9 JUL 2009

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France

In re Application of
GUIMBERTEAU et al.
Application No.: 11/884,549
PCT No.: PCT/EP2006/060159
Int. Filing Date: 21 February 2006
Priority Date: 21 February 2005
Attorney Docket No.: 022290.0183PTUS
For: MULTIMICROPARTICULATE ORAL PHARMACEUTICAL FORM WITH MODIFIED RELEASE OF ANGIOTENSIN II RECEPTOR ANTAGONISTS

Dear Mr. Soula:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

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26 JAN 2009

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In re Application of
BALDET *et al*
U.S. Application No.: 11/884,635
PCT No.: PCT/IB2006/000318
Int. Filing Date: 17 February 2006
Priority Date: 18 February 2005
Docket No.: 2323-017-03
For: METHOD AND UNIT FOR SHIFTING GEAR IN A POWER-ASSIST TRANSMISSION

DECISION

This is a decision on applicants' petition to withdraw the holding of abandonment filed 24 November 2008 which is treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 21 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 24 November 2008, applicants filed the instant petition which was accompanied by, *inter alia*, documentary evidence in support of the petition.

DISCUSSION

Applicants claim that the Form PCT/DO/EO/905 mailed 21 March 2008 was not received. All time remaining in the Form PCT/DO/EO/905 has expired. As such, the above-captioned application is expired. In the subject petition, applicants request that the holding of abandonment be withdrawn.

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO; (2) a statement that the Office action was not received at the correspondence address of record; (3) a statement 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; and, (4) a copy of the docket record where the nonreceived

Office communication would have been entered had it been received and docketed is required. *See* § 711.03(c)(I)(A) MPEP.

In this case, applicants have provided: (1) a copy of the file index for the subject application; (2) a screen shot of the electronic application file; (3) screen shot of practitioner's task list; (4) copy of the assistant's docket calendar; and (5) a master docket sheet for the instant application.

Applicant's also state that "[t]he undersigned attests to the reliability of the practitioner's docket system." This statement is not sufficient. The practitioner must also describe how their system records an Office action received and put it into context with the evidence submitted.

In addition, the docket record requirement is also not satisfied. Section 711.03(c)(I)(A) of the MPEP expands on the docket record requirement and states that:

> 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

Applicants should provide a copy of the master docket record for the law firm two months from the mail date of the Form PCT/DO/EO/905 (21 May 2008) with any renewed petition.

For these two reasons, applicants have failed to establish the failure to receive the Form PCT/DO/EO/905.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response establishing nonreceipt of the Form PCT/DO/EO/905 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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UNITED STATES PATENT AND TRADEMARK OFFICE

25 MAR 2009

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In re Application of
BALDET *et al*
U.S. Application No.: 11/884,635
PCT No.: PCT/IB2006/000318
Int. Filing Date: 17 February 2006
Priority Date: 18 February 2005
Docket No.: 2323-017-03
For: METHOD AND UNIT FOR SHIFTING GEAR IN A POWER-ASSIST TRANSMISSION

DECISION

This is a decision on applicants' renewed petition to withdraw the holding of abandonment filed 05 February 2009.

BACKGROUND

On 26 January 2009, a decision dismissing applicants' petition to withdraw a holding of abandonment based upon nonreceipt of an office action was mailed. Applicants were given two months to respond.

On 05 February 2009, applicants filed the instant renewed petition which was accompanied by, *inter alia*, documentary evidence in support of the petition.

DISCUSSION

As previously stated, the showing required to establish the failure to receive an Office communication consists of:

(1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO;
(2) a statement that the Office action was not received at the correspondence address of record;
(3) a statement 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; and,
(4) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed is required.

Applicants failed to satisfy items (1) and (4) in the initial petition.

In the renewed petition, applicants attested to the reliability of their docketing system and their expectation that the record of the Notice would include the application number, attorney docket number, the mail date of the Notice and the due date for response. This is sufficient to meet item (1) above.

With regards to item (4), applicants were requested to provide a copy of the master docket record for the law firm for 21 May 2008. In the renewed petition, applicants submitted the required evidence in the form of a weekly master docket report for the weeks from 21 March - 21 May 2008. A review of the master docket and other relevant evidence previously submitted shows that the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) mailed 21 March 2008 in the above-captioned application was not docketed. This is sufficient to meet the docket record requirement noted in item (4) above.

Applicants have established that the Form PCT/DO/EO/905 mailed 21 March 2008 was not received.

CONCLUSION

In view of the above, the renewed petition to withdraw the holding of abandonment is **GRANTED**.

A declaration in compliance with 37 CFR 1.497(a) and (b) is required within the time period set forth below.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to provide an acceptable response. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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In re Application of BANAT et al.	:
Application No.: 11/884,653	: DECISION ON PETITION
PCT No.: PCT/GB06/00517	:
Int. Filing: 15 February 2006	: UNDER 37 CFR 1.47(a)
Priority Date: 21 February 2005	:
Attorney Docket No.: LCM-4702-77	:
For: POLYMERISATION CATALYSTS	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 15 September 2008, to accept the application without the signature of joint inventor YAHYA AHMAD BANAT.

BACKGROUND

On 20 August 2007, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 14 July 2008, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration, in accordance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty-month period was required.

On 15 September 2008, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a), in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor YAHYA AHMAD BANAT, alleging that the inventor is unavailable.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her

own behalf and on behalf of the non-signing joint inventor(s).

The petition included authorization to charge applicant's deposit account the requisite petition fee, satisfying Item (1). A statement of applicant's last known address was provided satisfying Item (3). As for Item (4), a multi-page declaration executed by the joint inventors on their behalf and on behalf of the non-signing inventor was provided. However, the declaration is not in compliance with 37 CFR 1.497(a) and (b).

The declaration submitted on 15 September 2008 is a two-page declaration. However, the declaration contains four pages: one page marked "Page 1" and three pages marked "Page 2", which are executed by different inventors. The declaration appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." *See* MPEP 201.03. The declaration is unacceptable as filed and thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met. Item (4) is not yet satisfied.

Unavailability of Inventor

With respect to Item (2), Petitioner employs the declaration of Christine Gravenell, who describes her attempts to reach Mr. BANAT. Ms. Gravenell indicates that she made two attempts to forward a copy of the patent application and declaration to Mr. BANAT at his last known address without success. It appears that no efforts were made to find or reach the nonsigning inventor because none of these efforts are detailed in her declaration. Petitioner did not show what attempts were made to locate the nonsigning inventor.

As indicated in the MPEP Section 409.03(d), 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 in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

As noted above, Petitioner did not demonstrate what "diligent efforts" were undertaken to locate Mr. BANAT and obtain his signature on the declaration. Diligent efforts made to locate the nonsigning inventor were not pursued and documented, such as Internet searches, contact with the joint inventors to obtain the nonsigning inventor's current address, a forwarding address or current email address and/or current employer. No attempt to reach him by telephone was made. No request from the Postal Service for his forwarding address was made. 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. Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any search for the nonsigning inventor's new address was made. Since no attempts to locate the inventor was documented, it cannot be concluded that "a diligent effort" was made to locate the non-signing inventor.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that the nonsigning inventor is unavailable to sign the application. Petitioner has not satisfied Item (2) by demonstrating a first hand statement of the " diligent efforts" that were made to locate the nonsigning inventor.

In sum, Petitioner has satisfied Item (1) and (3). As set forth above, Petitioner has not satisfied Items (2) and (4). Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of BANAT et al.	:
Application No.: 11/884,653	: DECISION ON PETITION
PCT No.: PCT/GB06/00517	:
Int. Filing: 15 February 2006	: UNDER 37 CFR 1.47(a)
Priority Date: 21 February 2005	:
Attorney Docket No.: LCM-4702-77	:
For: POLYMERISATION CATALYSTS	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 January 2009. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 15 September 2008, applicant filed a petition under 37 CFR .147(a) along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a), in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor YAHYA AHMAD BANAT, alleging that the inventor is unavailable.

On 19 November 2008, a decision dismissing the petition was mailed indicating, *inter alia*, that the declaration was unacceptable as filed as it did not fulfill the requirements of 37 CFR 1.497 (a) and (b).

On 27 January 2009, applicant filed a renewed petition along with four executed declarations.

DISCUSSION

Petitioner has now presented four declarations signed by previously non-signing inventor Yahya Ahmad BANAT and the joint inventors. A review of the declaration reveals that the declaration identifies and is executed by all the inventors named in the international application. The declaration states the residency, citizenship and mailing address of each inventor.

The petition under 37 CFR 1.47(a) is considered moot as declaration executed by the

previously unavailable inventor has now been submitted. The declaration is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The declaration, executed by the joint inventors and submitted on 27 January 2009 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 27 January 2009.

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In re Application of	:	
SINGH, et al.	:	DECISION ON PETITION
Application No.: 11/884,677	:	
PCT No.: PCT/IN05/00017	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 19 January 2006	:	
Priority Date: 19 January 2005	:	
Atty. Docket No.: SINGH-1	:	
For: HERBAL CONTRACEPTIVE FORMULATION	:	

The petition to revive under 37 CFR 1.137(b) filed 20 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors and payment of the appropriate surcharge is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/06/2010

Applicant	: Hans Adel	: DECISION ON REQUEST FOR
Patent Number	: 7646356	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/884,691	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **40** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BACON & THOMAS, PLLC
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ALEXANDRIA, VA 22314-1176

Mail Date: 05/11/2010

Applicant	: Ann Valerie Van Der Heggen	: DECISION ON REQUEST FOR
Patent Number	: 7614862	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/884,706	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/20/2007	: 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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10 APR 2008

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of OPHIR et al	:	
U.S. Application No.: 11/884,758	:	
PCT Application No.: PCT/IL2006/000248	:	DECISION
Int. Filing Date: 23 February 2006	:	
Priority Date Claimed: 23 February 2005	:	
Attorney Docket No.: 28574U	:	
For: COMPACT HEAT PUMP USING WATER AS REFRIGERANT	:	

This is in response to the declaration filed 05 December 2007, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 February 2006, applicant filed international application PCT/IL2006/000248, which claimed priority of an earlier United States application filed 23 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 31 August 2006. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2007.

On 21 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 December 2007, applicant filed the present request for status under 37 CFR 1.42.

DISCUSSION

The declaration indicates that the fourth inventor, Arie Kanievski, is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 05 December 2007 is improper. In particular, the declaration lists a corporation/organization as the legal representative of the deceased inventor. 37 CFR 1.497(b)(2) specifies that the citizenship of the legal representative must be identified. Applicant has not made a showing that: (1) a corporation/organization is permitted to be the legal representative of a deceased person in the country of which the deceased was a citizen and (2) a corporation/organization is able to hold citizenship in the country of which the deceased was a citizen. The declaration is further defective because it fails to identify the citizenship of the deceased inventor as required by 37 CFR 1.497(a)(3).

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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Facsimile: 571-273-0459

0 2 DEC 2008

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NATH & ASSOCIATES
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ALEXANDRIA, VA 22314

In re Application of OPHIR et al	:	
U.S. Application No.: 11/884,758	:	
PCT Application No.: PCT/IL2006/000248	:	DECISION
Int. Filing Date: 23 February 2006	:	
Priority Date Claimed: 23 February 2005	:	
Attorney Docket No.: 28574U	:	
For: COMPACT HEAT PUMP USING WATER AS REFRIGERANT	:	

This is in response to applicant's "Request for Reconsideration" filed 10 June 2008, which is being treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 23 February 2006, applicant filed international application PCT/IL2006/000248, which claimed priority of an earlier United States application filed 23 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 31 August 2006. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2007.

On 21 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 December 2007, applicant filed a request for status under 37 CFR 1.42.

On 10 April 2008, this Office mailed a decision dismissing the 05 December 2007 request for status.

On 10 June 2008, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

The declaration indicates that the fourth inventor, Arie Kanievski, is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 10 June 2008 is in compliance with 37 CFR 1.42 and 37 CFR 1.497(b)(2).

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 February 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 June 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

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2 4 MAR 2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:
SUZUKI et al.	:
Application No.: 11/884,763	: DECISION
PCT No.: PCT/JP05/24075	:
Int. Filing Date: 28 December 2005	: ON PETITION UNDER
Priority Date: 28 February 2005	:
Attorney Docket No.: Q103405	: 37 CFR 1.182
For: RADIOACTIVE HALOGEN-LABELED PHENYLOXYANILINE...	

This is a decision on applicants' "Letter of Explanation of Inventor's Name Change" treated as a Petition under 37 CFR 1.182 to correct the name of inventor filed in the United States Patent and Trademark Office (USPTO) on 09 September 2008.

BACKGROUND

On 21 August 2007, applicant filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee.

On 08 November 2007, applicant filed an executed declaration. The published international application identified the third inventor as Halldin Christar. However, the declaration identified the third inventor as Christer Halldin and was executed as such.

On 09 July 2008, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period, was required. The notification requested an explanation of the name change for inventor Halldin Christar and clarification of its spelling. The executed declaration was not in compliance with 37 CFR 1.497(a) and (b) as the declaration did not name the inventive entity identified in the published international application.

On 09 September 2008, applicant filed a Response to the Notification of Missing Requirements along with an executed declaration of the inventors.

DISCUSSION

A review of the application file reveals that the given name of the applicant as listed on the published international application is "Halldin Christar". The declaration, filed on 08 November 2007, is signed by "Christer Halldin". It appears that applicant did not request under PCT Rule 92*bis* to change the name of the inventor as a Notification of the Recording of a Change (Form PCT/IB/306) was not provided indicating that the name change was accepted.

Applicant's submission is treated as a petition under 37 CFR 1.182 as it provides an explanation of the error in the third inventor's name and the correct spelling of his first name. The $400 petition fee will be charged to applicant's deposit account per his authorization. The correction of the error in the first name of inventor Christer Halldin is accepted and noted in the record.

CONCLUSION

The petition under 37 CFR 1.182 to correct the inventor's name to **Christer Halldin** is **GRANTED.** For the above reasons, the declaration submitted on 08 November 2007 now meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 08 November 2007.

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Martin D. Moynihan
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

In re Application of	:	DECISION ON
RAVITCH et al	:	
PCT No.: PCT/IL2006/000243	:	
Application No.: 11/884,781	:	PETITION UNDER
Int. Filing Date: 22 February 2206	:	
Priority Date: 22 February 2005	:	
Attorney's Docket No.: 41993	:	37 CFR 1.47(a)
For: METHOD AND APPARATUS...	:	
IN ACCORDANCE THEREIN	:	

This decision is in response to petitioner's "Petition Under 37 CFR 1.47(a)" submitted on 29 May 2008, requesting the acceptance of the application without the signature of the inventor Michael BERNSTEIN. Petitioner's deposit account has been charged the requisite $200 petition.

BACKGROUND

On 22 February 2006, applicants filed international application PCT/IL2006/000243, which claimed priority of an earlier application filed 22 February 2005.

On 22 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 03 April 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b) in that it "is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The notification further stated that all items must be submitted within two months from the date of mailing or by 32 months from the priority date for the application in order to avoid abandonment of the national stage application.

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) and the Notice, petitioner filed on 29 May 2008, a petition under 37 CFR 1.47(a), a Declaration and Power for Patent Application executed by Vladimir RAVITCH and Arie ARIAV on their behalf and on behalf on the nonsigning inventor, Michael BERNSTEIN.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has satisfied items (1) - (4) of 37 CFR 1.47(a).

Regarding item (1), the correct petition fee of $200.00 has been paid.

Regarding item (2), the averments of Mr. Moynihan are sufficient to support a finding that the nonsigning inventor, Bernstein refuses to sign because it is clear that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, and that the inventor refused to return the correspondence. Mr. Bernstein notified Mr. Moynihan on May 20, 2008 that he received the application papers and refuses to sign them.

Regarding item (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding item (4), petitioner has provided an executed declaration signed by Vladimir RAVITCH and Arie ARIAV on there behalf and on the behalf of the nonsigning joint inventor Michael BERNSTEIN.

Consequently, at this time it can not be concluded that the nonsigning Mr. BERNSTEIN could not be reached after diligent effort or refuses to sign as stipulated under 37 CFR 1.47(a).

As a result, the petition satisfies all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED** without prejudice.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **29 May 2008.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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Michael BERNSTEIN
8 ShahAr Yeshuv Street
789498 Ashkelon
Israel

In re Application of
RAVITCH et al
PCT No.: PCT/IL2006/000243
Application No.: 11/884,781
Int. Filing Date: 22 February 2206
Priority Date: 22 February 2005
Attorney's Docket No.: 41993
For: METHOD AND APPARATUS...
IN ACCORDANCE THEREIN

Dear Mr. Bernstein:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Martin D. Moynihan
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KENYON & KENYON LLP
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WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Tatsuhiko Mizutani	: DECISION ON REQUEST FOR
Patent Number	: 7645157	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/884,793	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **219** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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27476
NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY R338
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of
PIZZA *et al*
U.S. Application No.: 11/884,825
PCT No.: PCT/US2006/005912
Int. Filing Date: 17 February 2006
Priority Date: 18 February 2006
Docket No.: PP028037.0003
For: IMMUNOGENS FROM UROPATHOGENIC ESCHERICHIA COLI

DECISION

This is a decision on the papers filed 04 September 2008 which are treated as a petition to add an inventor under 37 CFR 1.497(d).

BACKGROUND

On 20 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 04 April 2008, applicants submitted a declaration executed by five inventors.

On 04 August 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted 04 April 2008 was not in compliance with 37 CFR 1.497(a) and (b) because the inventors listed did not match the inventors listed on the international application.

On 04 September 2008, applicants filed the subject response.

DISCUSSION

Applicants claims that the declaration filed 04 April 2008 "reflects the true and accurate inventorship of the above application." A review of PCT/US2006/005912 shows that four inventors were listed on the PCT Request. The declaration filed 04 April 2008 indicates that there were five inventors. Maria Rita Fontana does not appear as an inventor in the international application. There is no record that Ms. Fontana has been added in the international application pursuant to PCT Rule 92*bis*. Accordingly,

applicants' response is treated as a petition to add Ms. Fontana as an inventor in the above-captioned application.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(l); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants have not provided items (1) and (3). The processing fee of $130.00 has been charged to Deposit Account No. 03-1952 as authorized.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The declaration filed 04 April 2008 is not in compliance with 37 CFR 1.497(a)(3).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Failure to submit a proper response will result in the abandonment of the above-captioned application.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O.

11/884,825

Box 1450, Alexandria, Virginia 22313-1450.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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2 4 MAR 2009

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INTELLECTUAL PROPERTY R338
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Emeryville, CA 94662-8097

In re Application of
PIZZA *et al*
U.S. Application No.: 11/884,825
PCT No.: PCT/US2006/005912
Int. Filing Date: 17 February 2006
Priority Date: 18 February 2006
Docket No.: PP028037.0003
For: IMMUNOGENS FROM UROPATHOGENIC ESCHERICHIA COLI

DECISION

This is a decision on the papers filed 04 February 2009 which are treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 26 November 2008, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 04 February 2009, applicants filed a response which was accompanied by, *inter alia*, a statement signed by the inventors, a statement of consent by the assignee and authorization to charge any required fees to Deposit Account No. 03-1952

DISCUSSION

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> (1) A statement from each person being added as an inventor

and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants failed to satisfy items (1) and (3) of 37 CFR 1.497(d) with their initial petition. In the renewed response, applicants provided a statement signed by all named inventors including Danilo Gomes Moriel and Mari Rita Fontana (who are being added) and Vega Masignani (who is being removed) attesting that the error in inventorship occurred without deceptive intent.

This statement satisfies item (1) of 37 CFR 1.497(d).

Petitioners also submitted a statement titled "Consent of Assignee for Change of Inventorship" consenting to the change in inventorship. The statement was signed by Richard Pitman as Site Head Intellectual Property. The location of the assignment was provided as required. The assignment was recorded.

However, the consent by assignee is not accepted for the following reason. MPEP § 324 states that: "[a] person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee.

The position of Site Head Intellectual Property is not presumed to have authority to sign the statement on behalf of the assignee. Moreover, the submission does not set forth that Mr. Pitman is authorized to act on behalf of the assignee.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet complete.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

11/884,825

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

27476
NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY R338
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of :
PIZZA *et al* :
U.S. Application No.: 11/884,825 :
PCT No.: PCT/US2006/005912 :
Int. Filing Date: 17 February 2006 : **DECISION**
Priority Date: 18 February 2006 :
Docket No.: PP028037.0003 :
For: IMMUNOGENS FROM :
UROPATHOGENIC ESCHERICHIA :
COLI :

This is a decision on the papers filed 23 April 2009 which are treated as the second renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 24 March 2009, a decision dismissing applicants' renewed petition under 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 23 April 2009, applicants filed the subject response which was accompanied by, *inter alia*, a copy of a power of attorney.

DISCUSSION

Applicants request that Maria Rita Fontana be added as inventor in the above-captioned national stage application of PCT/US2006/005912.

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)).

37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of

any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d).

Regarding item (3) of 37 CFR 1.497(d), the consent by assignee for change of inventorship provided in the prior petition was not accepted. Mr. Richard Pitman signed the consent form in his capacity as the Site Head Intellectual Property of Novartis Vaccines & Diagnostics S.R.L. However, this position is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. *See* § 324 MPEP. Mr. Pitman also did not assert that he had the authority to sign for the assignee in the consent form.

In the renewed petition, applicants submitted a power of attorney signed by Francesco Gulli as the Managing Director of Novartis Vaccines & Diagnostics S.R.L. granting Mr. Richard Pitman the authority to sign and act for the assignee. The position of Managing Director in a foreign corporation is presumed to have the authority to sign for an organization. This is sufficient to show that Mr. Pitman has the authority to sign for the assignee. Item (3) of 37 CFR 1.497(d) is now satisfied.

All items of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request to add Maria Rita Fontana as an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 04 April 2008 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 February 2006 under 35

U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 04 April 2008.

This application is being forwarded to the DO/EO/US for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 OCT 2009

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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27476
NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY R338
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of
PIZZA *et al*
U.S. Application No.: 11/884,825
PCT No.: PCT/US2006/005912
Int. Filing Date: 17 February 2006
Priority Date: 18 February 2006
Docket No.: PP028037.0003
For: IMMUNOGENS FROM UROPATHOGENIC ESCHERICHIA COLI

SUPPLEMENT TO DECISION

This is a supplement to the decision under 37 CFR 1.497(d) mailed 09 June 2009.

BACKGROUND

On 09 June 2009, a decision granting applicants' petition under 37 CFR 1.497(d) was mailed. The decision noted that Maria Rita Fontana was added as an inventor.

On 04 February 2009, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 (Form PCT/DO/EO/903) and a filing receipt. However, Maria Rita Fontana was not listed as an applicant on the filing receipt.

DISCUSSION

In the original petition filed 04 February 2009, applicants requested that Maria Rita Fontana and Danilo Gomes Moriel be added as inventors and Vega Masignani be removed as an inventor. The declaration filed 04 April 2008 contained these changes. However, the 09 June 2009 decision granting applicants' petition under 37 CFR 1.497(d) failed to add Danilo Gomes Moriel and remove Vega Masignani as inventors in the above-captioned application.

A further review of the file shows that all requirements of 37 CFR 1.497(d) were satisfied regarding the addition of Danilo Gomes Moriel and removal of Vega Masignani. Both inventors executed a statement that the inventorship errors occurred without deceptive intent. The consent of the assignee submitted 04 February 2009 also approved these changes.

11/884,825

CONCLUSION

Applicants' petition under 37 CFR 1.497(d) with regards to adding Danilo Gomes Moriel as an inventor and removing Vega Masignani as an inventor is also **GRANTED**.

The filing receipt mailed 08 September 2009 contains erroneous information regarding the applicants and is hereby **VACATED**.

The application will be forwarded to the DO/EO/US for further processing in accordance with this decision including mailing a corrected filing receipt.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of	:	
Pradip K. Roy et al.	:	
Application No. 11/884,829	:	DECISION ON PETITION
Filed: October 16, 2008	:	TO WITHDRAW
Attorney Docket No. 577182000830	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed May 27, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 25226 has been revoked by the assignee of the patent application on May 21, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: NexPlanar Corporation
7425 NW Evergreen Parkway
Suite 150
Hillsboro OR 97124

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1 8 JUN 2008

MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK, NJ 07701-8489

In re Application of LU	:	
U.S. Application No.: 11/884,848	:	
PCT Application No.: PCT/US2006/007580	:	DECISION
Int. Filing Date: 03 March 2006	:	
Priority Date Claimed: 03 March 2005	:	
Attorney Docket No.: ChenLu-1/PCT/US	:	
For: MODULAR HOSE COUPLER	:	

This is in response to applicant's "Petition for Filing Under 37 C.F.R. §1.47(b)" filed 07 May 2008.

BACKGROUND

On 03 March 2006, applicant filed international application PCT/US2006/007580, which claimed priority of an earlier United States application filed 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 September 2007.

On 22 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 May 2008, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing

inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> 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.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that the inventor James Lu refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Lu for signature (see affidavit of Maggie Chen, ¶13). Furthermore, the petition sufficiently illustrates that Lu refuses to sign. In particular, Lu made an express written refusal to sign in an electronic mail message dated 28 March 2008. Thus, it can be concluded with reasonable certainty that Lu refuses to join in the application.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor(s) has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (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 filing of the application. MPEP 409.03(f).

The petition states that Maggie Chen has proprietary interest in the present invention. Petitioner has not furnished evidence that the invention has been assigned to Ms. Chen, nor has petitioner provided evidence that the inventor has agreed in writing to assign the invention to Ms. Chen. The documents entitled "Minutes of Organizational Meeting of E&W Industrial Inc.", "Shareholder Representation Letter", "Annual Meeting of Shareholder of E&W Industrial, Inc.", and "Minutes of Annual Shareholder Meeting" do not constitute an agreement to assign the invention to Ms. Chen. It is noted that international application PCT/US2006/007580 claims priority to four applications, only one of which is identified in the "Minutes of Organizational Meeting of E&W Industrial Inc." Furthermore, the "Minutes of Organizational Meeting of E&W Industrial Inc." does not specify the extent of the "IP Rights" allegedly transferred by the inventor. In particular, the document does not state whether the rights extend to future applications which are entitled to claim priority based on the listed application. Additionally, the "Minutes of Organizational Meeting of E&W Industrial Inc." states at the top of page 4 that "contractual commitments have been received from the persons named above to purchase the number of shares of this corporation's capital stock, for the consideration stated", however a copy of such purported contract signed by James Lu has not been furnished. Accordingly, item (C) above applies. With respect to item (C), MPEP 409.03(f) states,

> 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 otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner must furnish an appropriate legal memorandum which establishes that Ms. Chen would be awarded title to the present invention. Such legal memorandum must be accompanied by a copy of the U.S. statute and/or court decision relied upon and must be supported by an affidavit from the person with firsthand knowledge of the facts of the present case.

With regard to item (6) above, an adequate statement regarding preservation of the rights of the parties and/or prevention of irreparable damage has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

16 SEP 2008

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK, NJ 07701-8489

In re Application of LU	:	
U.S. Application No.: 11/884,848	:	
PCT Application No.: PCT/US2006/007580	:	DECISION
Int. Filing Date: 03 March 2006	:	
Priority Date Claimed: 03 March 2005	:	
Attorney Docket No.: ChenLu-1/PCT/US	:	
For: MODULAR HOSE COUPLER	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(b)" filed 18 August 2008.

BACKGROUND

On 03 March 2006, applicant filed international application PCT/US2006/007580, which claimed priority of an earlier United States application filed 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 September 2007.

On 22 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 May 2008, applicant filed a petition under 37 CFR 1.47(b).

On 18 June 2008, this Office mailed a decision dismissing the 07 May 2008 petition.

On 18 August 2008, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Petitioner has previously satisfied items (1), (2), (3), (4), and (6) above.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (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 filing of the application. MPEP 409.03(f).

The petition states that Maggie Chen has proprietary interest in the present invention.

MPEP 409.03(f) states,

> 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 otherwise 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 renewed petition includes an legal memorandum prepared by attorney Yung-Ming Chou which states that Ms. Chen would be awarded title to the present invention. Mr. Chou's memorandum is accompanied by a copy of the state statute and court decision relied upon. Mr. Chou's memorandum states that he is the person with firsthand knowledge of the facts of the present case. Accordingly, it can be concluded with reasonable certainty that Maggie Chen has sufficient proprietary interest in the present application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 03 March 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 May 2008.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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16 SEP 2008

James Lu
P.O. Box 14555
Fremont, CA 94539

In re Application of LU
U.S. Application No.: 11/884,848
PCT Application No.: PCT/US2006/007580
Int. Filing Date: 03 March 2006
Priority Date Claimed: 03 March 2005
For: MODULAR HOSE COUPLER

Dear James Lu:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

As the named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Lin

Bryan Lin
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Telephone: 571-272-3303
Facsimile: 571-273-0459

MICHAELSON & ASSOCIATES
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Attorney Docket No.: ChenLu-1/PCT/US

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UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/884,857	08/21/2007	Heino Heckmann	2005DE103	7724

7590 07/10/2009
CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE, NC 28205

EXAMINER
GREEN, ANTHONY J

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
07/10/2009	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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

MAILED

JUN 10 2009

OFFICE OF PETITIONS

Applicant: Thyzel
Appl. No.: 11/884,895
International Filing Date: January 26, 2006
Title: DEVICE FOR SEALING AN OPENING IN A HUMAN OR ANIMAL EYE
Attorney Docket No.: 17373/002001
Pub. No.: US 2008/0281277 A1
Pub. Date: November 13, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 12, 2009 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 several of the claims.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the claims are mainly typographical or minor in nature and are not material Office errors under 37 CFR 1.221. The text was not printed correctly due to the quality of the text. The errors noted by requestor are due to the quality of the text, as the font is faint and unclear. The quality of some of the text is poor, as it is faint, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52. Additionally, a member of the public will be able to understand the context by the surrounding information in the specification.

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic

[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).

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).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and 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

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

0 7 AUG 2008

Commissioner for Patents
United States Patent and Trademark Office
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Robert J. Decker
University of Virginia Patent Foundation
250 West Main Street, Suite 300
Charlottesville, VA 22902

In re Application of	:	
POON, et al.	:	
U.S. Application No.: 11/884,917	:	DECISION ON PETITION
PCT No.: PCT/US06/06709	:	
Int. Filing Date: 23 February 2006	:	UNDER 37 CFR 1.497(d)
Priority Date: 24 February 2005	:	
Attorney Docket No.: 01105-04	:	
For: AMORPHOUS STEEL COMPOSITES WITH	:	
ENHANCED STRENGTHS, ELASTIC	:	
PROPERTIES AND DUCTILITIES	:	

This decision is in response to applicant's "§1.497 Oath and Declaration Under 35 U.S.C. 371(c)(4)" filed 23 May 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 23 February 2006, applicant filed international application PCT/US06/06709, which claimed priority of an earlier application filed 24 February 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 August 2007.

On 22 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed declaration and power of attorney listing an additional inventor, Xiao-Jun Gu; and a preliminary amendment.

On 24 March 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was informed that the filed declaration contained an additional inventor not listed on the published international application. Applicant was also notified of the need to pay the $65.00 surcharge for providing the oath or declaration later than 30 months from the earliest claimed priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 23 May 2008, applicant filed the present statement from the inventor, Xiao-Jun Gu.

DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) the fee set forth in 37 CFR 1.17(h); and

(3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant has satisfied items (1) and (4). Specifically, the inventor being added, Mr. Christopher R. Self, has signed a statement indicating that his omission from the international application was in error and without deceptive intent. As detailed above, an executed declaration of all three inventors was filed on 22 August 2007.

As to item (1), applicant has included a fee payment of $130.00. However, the payment was identified as a processing fee. In any renewed petition applicant should confirm that this $130.00 was intended as the petition fee or provide payment of the $130.00 petition fee.

Regarding item (3), applicant has not included a statement from the assignee consenting to the addition of the inventor named in the petition, as well as, right to prosecute pursuant to 37 CFR 3.73(b).

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

0 7 OCT 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert J. Decker
University of Virginia Patent Foundation
250 West Main Street, Suite 300
Charlottesville, VA 22902

In re Application of	:	
POON, et al.	:	
U.S. Application No.: 11/884,917	:	DECISION ON PETITION
PCT No.: PCT/US06/06709	:	
Int. Filing Date: 23 February 2006	:	UNDER 37 CFR 1.497(d)
Priority Date: 24 February 2005	:	
Attorney Docket No.: 01105-04	:	
For: AMORPHOUS STEEL COMPOSITES WITH ENHANCED STRENGTHS, ELASTIC PROPERTIES AND DUCTILITIES	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.497(d)" filed 06 October 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 August 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d) to add Xiao-Jun Gu as an inventor. Applicant was afforded two months to file any request for reconsideration.

On 06 October 2008, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 07 August 2008, 37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) the fee set forth in 37 CFR 1.17(h); and

(3) if an assignment has been executed by any of the original named inventors, the written

consent of the assignee in compliance with 37 CFR 3.73(b); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant previously satisfied items 1 and 4. With the filing of the present renewed petition and accompanying papers applicant has satisfied the remaining two items and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, the renewed request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application has an international application filing date of 23 February 2006 and will be given a date of **22 August 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
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UNITED STATES PATENT AND TRADEMARK OFFICE

1 0 DEC 2008

COMMISSIONER FOR PATENTS
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MICHAEL N. LAU
LAU & ASSOCIATES, LLC
2121 EISENHOWER AVENUE
SUITE 200
ALEXANDRIA, VA 22314

In re Application of ZHU et al	:	
U.S. Application No.: 11/884,938	:	
PCT Application No.: PCT/CN2006/000256	:	
Int. Filing Date: 23 February 2006	:	
Priority Date Claimed: 23 February 2005	:	
Attorney Docket No.: 070801	:	DECISION
For: A DATA MANAGING METHOD IN A NETWORK STORAGE SYSTEM AND THE NETWORK STORAGE SYSTEM BASED ON THE METHOD	:	

This is in response to applicant's "Communication" filed 14 March 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 February 2006, applicant filed international application PCT/CN2006/000256, which claimed priority of an earlier China application filed 23 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 31 August 2006. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2007.

On 23 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 January 2008, applicant purportedly filed an English translation of the international application.

On 10 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an English translation of the international application must be filed.

On 14 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the English translation was originally filed on 08 January 2008. Specifically, the copy of the return postcard, which includes the English translation in its itemized contents and which bears a USPTO date stamp of 08 January 2008, serves as *prima facie* evidence that the English translation was received by the USPTO on 08 January 2008.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 10 March 2008 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 February 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 January 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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14 OCT 2009

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2121 EISENHOWER AVENUE
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ALEXANDRIA, VA 22314

In re Application of ZHU et al	:	
U.S. Application No.: 11/884,938	:	
PCT Application No.: PCT/CN2006/000256	:	
Int. Filing Date: 23 February 2006	:	
Priority Date Claimed: 23 February 2005	:	
Attorney Docket No.: 070801	:	DECISION
For: A DATA MANAGING METHOD IN A NETWORK STORAGE SYSTEM AND THE NETWORK STORAGE SYSTEM BASED ON THE METHOD	:	

This is in response to applicant's "Communication" filed 10 August 2009, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 February 2006, applicant filed international application PCT/CN2006/000256, which claimed priority of an earlier China application filed 23 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 31 August 2006. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2007.

On 23 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 January 2008, applicant filed an English translation of the international application.

On 02 April 2009, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which identified a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 14 March 2008.

On 10 August 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

As set forth in the decision on petition mailed 10 December 2008, the English translation of the international application was filed on 08 January 2008, thereby completing the requirements under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4). Therefore, the Notice of Acceptance and filing receipt mailed 02 April 2009 contain incorrect information.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 02 April 2009 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 February 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 January 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) and a corrected filing receipt, both of which should indicate a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 January 2008.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Daigo Ando	: DECISION ON REQUEST FOR
Patent Number	: 7657362	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/884,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

2 8 SEP 2007

United States Patent and Trademark Office

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P.O. Box 1450
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Charles J. Zeller
Avon Products
Avon Place
Suffern NY 10901

In re Application of	:	
Weber et al.	:	
Application No.: 11/884,996	:	
PCT No.: PCT/US05/46769	:	
Int. Filing Date: 29 December 2005	:	DECISION
Priority Date: 29 December 2004	:	
Attorney Docket No.: CR59U-US	:	
For: Nail Strips Having A Crosslinked Polymer Top Coat:		

The petition to revive under 37 CFR 1.137(b) filed on 24 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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United States Patent and Trademark Office

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10 NOV 2008

Charles J. Zeller
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Avon Place
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In re Application of
Weber et al.
Application No.: 11/884,996
PCT No.: PCT/US05/46769
Int. Filing Date: 29 December 2005
Priority Date: 29 December 2004
Attorney Docket No.: CR59U-US
For: Nail Strips Having A Crosslinked Polymer Top Coat

DECISION

This is in response to applicants' petition filed on 15 October 2008, which is being treated under 37 CFR 1.182.

BACKGROUND

This international application was filed on 29 December 2005, claimed an earliest priority date of 29 December 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 July 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 29 June 2007. This international application became abandoned with respect to the national stage in the United States for failure to pay the basic national fee.

On 24 August 2007, applicants filed a petition for revival under 37 CFR 1.137(b), which was granted in a Decision mailed on 28 September 2007.

On 10 July 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 14 July 2008, applicants filed a declaration and surcharge.

On 18 September 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating the declaration to be defective because the "name of the 2nd inventor is different on the declaration than on the international application."

DISCUSSION

Inspection of the declaration filed on 14 July 2008 reveals that it nominates "Christian J. LEE" in place of "LEE, John" named in the published international application. MPEP 605.04(b) states in part that

> *Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.*

Petitioner indicates that "Christian J. Lee is the same person as John Lee." This is corroborated by an accompanying statement signed by Christian John Lee. In view of the totality of the evidence currently of record, it would be appropriate to accept petitioner's statement regarding the identity of the two versions of the inventor's name, and to accept the name as it appears on the declaration filed on 14 July 2008. Petitioner does not explicitly identify the regulation under which the petition is being brought, but it is being treated under 37 CFR 1.182 in view of the above MPEP policy excerpt. The $400.00 petition fee is being charged to petitioner's Deposit Account 50-3782, per the authorization included in the petition.

Further inspection of the declaration reveals that it is directed both to 11/884,995 (not '996) and to PCT/US05/46769. Therefore, it is not clear which application is being executed. As such, though the discrepancy between the two versions of inventor Lee's name has been excused, the declaration is defective.

DECISION

The petition is **GRANTED** under 37 CFR 1.182.

The declaration filed on 14 July 2008 is **NOT ACCEPTED**, without prejudice.

Petitioner is required to file an oath or declaration compliant with 37 CFR 1.497(a) and (b), unambiguously identifying the application to which it is directed, within the remaining period for response to the Notification of Missing Requirements mailed on 10 July 2008 (as extended under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration

/George Dombroske/
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Office of PCT Legal Administration
Tel: (571) 272-3283
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1 5 MAY 2009

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Charles J. Zeller
Avon Products
Avon Place
Suffern NY 10901

In re Application of	:	
Weber et al.	:	
Application No.: 11/884,996	:	
PCT No.: PCT/US2005/046769	:	
Int. Filing Date: 29 December 2005	:	DECISION
Priority Date: 29 December 2004	:	
Attorney Docket No.: CR59U-US	:	
For: Nail Strips Having A Crosslinked Polymer Top Coat:		

This is in response to applicants' correspondence filed on 04 December 2008.

DISCUSSION

In a Decision mailed on 10 November 2008, the petition filed on 15 October 2008 was treated under 37 CFR 1.182. With respect to the declaration, it was noted that

> Further inspection of the declaration reveals that it is directed both to 11/884,995 (not '996) and to PCT/US05/46769. Therefore, it is not clear which application is being executed. As such, though the discrepancy between the two versions of inventor Lee's name has been excused, the declaration is defective.

In response, counsel has filed a declaration which complies with 37 CFR 1.497(a) and (b). The inventive entity named in the declaration filed on 04 December 2008 was expressly accepted in the Decision mailed on 10 November 2008.

DECISION

The declaration filed on 04 December 2008 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being returned to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **04 December 2008**.

/George Dombroske/
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UNITED STATES PATENT AND TRADEMARK OFFICE

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3 0 SEP 2008

Patterson Thuente Skaar & Christensen
4800 IDS Center
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Minneapolis, MN 55402

In re Application of	:	
YUYAMA et al.	:	
Application No.: 11/885,062	:	DECISION ON PETITION
PCT No.: PCT/JP2006/303235	:	UNDER 37 CFR 1.47(a)
Int. Filing: 23 February 2006	:	
Priority Date: 25 February 2005	:	
Attorney Docket No.: 3427.20US01	:	
For: TABLET FILLING DEVICE	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 03 September 2008 to accept the application without the signatures of joint inventor, Tasuku Minami. The petition fee has been charged to counsel's Deposit Account.

BACKGROUND

On 23 February 2006, applicants filed international application PCT/JP2006/303235, which claimed a priority date of 25 February 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 August 2006. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 25 August 2007.

On 24 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; and a declaration executed by two of the three joint inventors.

On 02 April 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903).

On 03 September 2008, applicants filed a petition under 37 CFR 1.47(a).

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee

under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted the required petition fee, and the petition expressly states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by two of the three inventors and containing an unsigned signature block for the nonsigning inventor. This declaration can be accepted as having been signed by the inventor on his own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), MPEP section 409.03(d) states that "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided statements from Shinya Yasuda and Mitsuhiro Higuchi, with supporting documents, providing a firsthand description of the efforts made to obtain the inventor's signature. These materials provide the required showing that the non-signing inventor has been provided via mail with a request for signature and a copy of the application papers, and that the inventor expressly stated that he would not execute the application documents. Item (4) is satisfied.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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3 0 SEP 2008

Tasuku Minami
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Toyonaka City
Osaka
560-0011 Japan

In re Application of
YUYAMA et al.
Application No.: 11/885,062
PCT No.: PCT/JP2006/303235
Int. Filing: 23 February 2006
Priority Date: 25 February 2005
Attorney Docket No.: 3427.20US01
For: TABLET FILLING DEVICE

Dear Tasuku Minami:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Counsel of Record:
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P.O. BOX 37428
RALEIGH NC 27627

In re Application of	:	
STAFFORD, et al.	:	DECISION ON PETITION
U.S. Application No.: 11/885,067	:	
PCT No.: PCT/US05/08643	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 15 March 2005	:	
Priority Date: None	:	
Atty Docket No.: 5470-472	:	
For: METHODS AND COMPOSITIONS FOR	:	
PRODUCING ACTIVE VITAMIN K-	:	
DEPENDENT PROTEINS	:	

This decision is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. § 1.497(d)" filed 09 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 March 2005, applicant filed international application PCT/US05/08643. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 September 2007.

On 24 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 09 January 2008, applicant filed the present petition.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Tao Li declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has provided a combined declaration and power of attorney executed by the inventor listed on the published international application as well as Tao Li.

As Item (3), applicant has authorized payment of $130.00 petition fee from deposit account 50-0220.

Regarding Item (4), applicant has provided a statement from the assignee consenting to the addition of Tao Li as an inventor in the present application.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application has an international application filing date of 15 March 2005 and will be given a date of **09 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

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CARELLA, BYRNE, BAIN ET AL
5 BECKER FARM ROAD
ROSELAND, NJ 07086-1739

In re Application of DALE et al	:	
U.S. Application No.: 11/885,098	:	
PCT Application No.: PCT/NO2006/000032	:	DECISION
Int. Filing Date: 24 January 2006	:	
Priority Date Claimed: 24 January 2005	:	
Attorney Docket No.: 53550.84	:	
For: DEVICE FOR A GANGWAY	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 August 2007.

BACKGROUND

On 24 January 2006, applicant filed international application PCT/NO2006/000032, which claimed priority of an earlier Norway application filed 24 January 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 27 July 2006. The thirty-month period for paying the basic national fee in the United States expired on 24 July 2007.

International application PCT/NO2006/000032 became abandoned as to the United States for failure to timely pay the basic national fee.

On 24 August 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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1 2 OCT 2007

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of	:	
JONZON et al.	:	
Application No.: 11/885,139	:	DECISION ON
PCT No.: PCT/SE2006/000193	:	
Int. Filing Date: 13 February 2006	:	PETITION UNDER
Priority Date: 21 February 2005	:	
Attorney Docket No.: 42671	:	37 CFR 1.137(b)
For: CHILLED BEVERAGE STORAGE DEVICE	:	

This decision is in response to applicants' submission filed 27 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 February 2006, applicant filed international application PCT/SE2006/000193 which designated the U.S. and claimed a priority date of 21 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 24 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2007.

On 27 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, the surcharge under 37 CFR 1.492(h), and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 27 August 2007.

As to item (2), applicant submitted the petition fee on 27 August 2007.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

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Scully, Scott, Murphy & Presser, P.C.
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In re Application of
NUNNARI et al.
Application No.: 11/885,142
PCT No.: PCT/US05/33888
Int. Filing Date: 21 September 2005
Priority Date: 22 September 2004
Attorney Docket No.: 18119
For: A SYSTEM AND METHOD FOR LEVERAGING HEALTH CARE AT A POINT OF SALE

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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25 FEB 2009

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MILWAUKEE WI 53202-5306

In re Application of:	:	
KITTEL, Kay, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 11/885,144	:	37 CFR 1.47(a)
PCT No.: PCT/EP2006/060068	:	
International Filing Date: 17 February 2006	:	
Priority Date: 28 February 2005	:	
Atty Dkt No.: 035451-0320 (2005PO3639WO)	:	
For: DISPLAY DEVICE MANAGING	:	
METHOD	:	

This decision is issued in response to applicants' "Petition By Joint Inventors Filing On Behalf Of Other Joint Inventor Who Cannot Be Reached Under 37 CFR 1.47(a)" filed 07 November 2008. Applicants have paid the required petition fee.

BACKGROUND

On 17 February 2006, applicants filed international application PCT/EP2006/060068. The international application claimed a priority date of 28 February 2005, and it designated the United States. On 08 September 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 28 August 2007.

On 27 August 2007, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a partial translation into English of the international application (the translation did not include the claims as filed).

On 08 July 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497, a translation into English of the claims as filed, and the $130 processing fee for filing the complete translation later than thirty months after the priority date were required.

On 07 November 2008, applicants filed a response to the Notification Of Missing Requirements (with required two-month extension fee). The response included payment of the required processing fee, an English translation of the claims as filed, a partially executed declaration, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks

acceptance of the application without the signature of inventor Kay KITTEL, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have paid the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by two of the three inventors and including an unsigned signature block for the non-signing inventor, Kay KITTEL. However, this declaration contains non-initialed, non-dated alterations (see 37 CFR 1.52(c)). Specifically, the hand-written indication of a revised address for inventor Michael LUTZELER has not been initialed or signed. Any changes made in ink in the application or declaration prior to signing should be initiated and dated by the applicants prior to execution of the declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration (see MPEP 605.04(a)). Therefore, a newly executed declaration is required from inventor Michael LUTZELER. Because the current declaration is not acceptable as filed, item (3) of a grantable petition is not satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, as evidence of the inventor's refusal to execute the declaration, the petition indicates that a request for signature was twice mailed to the non-signing inventor's last known

address, and that no response was received to such requests. The attached cover letters indicate that a copy of the application was included with the signature requests. However, where, as here, applicants are asking that the silence of a non-signing inventor be interpreted as a refusal to sign, it is especially important that the petition shows that the signature request (and a complete set of application papers) were mailed to a valid mailing address and received by the non-signing inventor. In the present petition, no such evidence has been provided (i.e., a delivery receipt signed by the inventor, etc.). Because applicant has provided no evidence that the request for signature was delivered to the non-signing inventor's current address and received by the inventor, the inventor's failure to respond to such mailings cannot, on the present record, be interpreted as a refusal to execute the application.

In the alternative, if applicants seek to demonstrate that the non-signing inventor cannot be located, applicants must provide firsthand and documentary evidence demonstrating a diligent effort to identify a current address for the inventor and to contact him at such address. See MPEP section 409.03(d). Any such diligent search should include, but not be limited to, an internet search for the inventor, with the results of such internet search being made of record herein. The present petition does not include an acceptable showing of such a diligent effort to locate the non-signing inventor.

Based on the above, applicants have failed to provide an acceptable showing that the non-signing inventor has refused to execute the application or cannot be located after diligent effort. Item (4) is not satisfied on the present record.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy items (3) and (4) of a grantable petition, as discussed above and in the MPEP. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of: KITTEL, Kay, et al. U.S. Application No.: 11/885,144 PCT No.: PCT/EP2006/060068 International Filing Date: 17 February 2006 Priority Date: 28 February 2005 Atty Dkt No.: 035451-0320 (2005PO3639WO) For: DISPLAY DEVICE MANAGING METHOD	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to the renewed petition under 37 CFR 1.47(a) filed 26 May 2009. No additional petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 25 February 2009. The decision dismissed applicants' petition under 37 CFR 1.47(a) for failure to satisfy the requirements of a grantable petition. Specifically, applicants had failed to provide an acceptable declaration executed by inventor Michael LUTZELER and an adequate showing that the non-signing inventor refuses to execute the application or cannot be located after diligent effort.

On 26 May 2009, applicants filed the renewed petition considered herein (with required extension fee).

DISCUSSION

The renewed petition was accompanied by a revised declaration executed by inventor Michael LUTZELER. This declaration includes an unsigned signature block for the non-signing inventor Kay KITTEL, and it does not contain any hand-written alterations. Based on this submission, applicants have now submitted acceptable declarations executed by both of the co-operating inventors that can be accepted as having been executed by these inventors on their own behalf and on behalf of the non-signing inventor. The declaration element of a grantable petition under 37 CFR 1.47(a) is therefore now satisfied.

The renewed petition is also accompanied by supplemental materials describing the diligent effort made to contact the non-signing inventor, including mailings to the inventor's last known address, inquiries with the other inventors and their employer, and internet searches.

These materials, in combination with those previously filed, provides an acceptable showing that the non-signing inventor cannot be located after diligent effort. Applicants have therefore satisfied the final requirement for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Kay KITTEL.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 May 2009.

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Kay KITTEL
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85586 Poing
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In re Application of: KITTEL, Kay, et al.
U.S. Application No.: 11/885,144
PCT No.: PCT/EP2006/060068
International Filing Date: 17 February 2006
Priority Date: 28 February 2005
Atty Dkt No.: 035451-0320 (2005PO3639WO)
For: DISPLAY DEVICE MANAGING METHOD

Dear Mr. KITTEL:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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SYRACUSE NY 13202

In re Application of SARAIJI et al. Application No.: 11/885,193 PCT No.: PCT/US05/47046 Int. Filing Date: 23 December 2005 Priority Date: 18 March 2005 Atty Docket No.: 210_821 For: DISPLAY MERCHANDISER WITH LIGHTING ENHANCEMENT	DECISION ON under 37 CFR 1.497(d)

This is a decision on applicant's' "Petition under 37 CFR 1.48(a) to Correct Inventorship", filed on 14 November 2008 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application. For the reasons set forth below, the petition is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 17 September 2008, a Notification of Missing Requirements was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 14 November 2008, applicant filed a response along with executed declarations and a "Petition under 37 CFR 1.48(a) to Correct Inventorship".

DISCUSSION

At the outset, it is noted that 37 CFR 1.48(a) is directed to non-provisional applications. A national stage application is not considered a non-provisional application until the requirements of 35 U.S.C. 371 are complete. Thus, a petition under 37 CFR 1.48(a) does not apply to the instant application at this time. Such request to correct inventorship is treated as a petition under 37 CFR 1.497(d), to correct an inventive entity if different from the inventive entity identified in the international application.

Riad Saraiji, Mark A. Daniels, Robert J. Reese, Stephen Kenney and Thomas E. Drago were named as inventors in the published international application PCT/US05/47046. The declaration submitted with the petition also identified Timothy J. Tifft as a co-inventor. Applicant requests the addition of inventor Tifft.

Petition under 37 CFR 1.497(d)

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d)

names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

With respect to Item (1), Petitioner has provided a statement from Timothy Tifft that any error in inventorship occurred without deceptive intention on his part. Applicant satisfied Item (2) above with the submission of the petition fee.

With regard to Item (3), the Written Consent of the assignee consenting to the addition of Timothy Tifft as inventor in this application to correct the inventorship under 37 CFR 1.497(d)(3) was provided. Item (3) above is satisfied.

Accordingly, applicant has met all of the requirements to add Timothy J. Tifft as a co-inventor in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

CONCLUSION

The petition under 37 CFR 1.1497(d) to Correct Inventor in the above-captioned application is **GRANTED.**

The declaration, executed by Riad Saraiji, Mark A. Daniels, Robert J. Reese, Stephen Kenney, Thomas E. Drago and Timothy J. Tifft as joint inventors in the above referenced application, is acceptable and in compliance with 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 14 November 2008.

Cynthia M. Kratz
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MONROE, CT 06468

In re Application of	:	
SYRJÄRINNE, Jari et al.	:	
Application No.: 11/885,200	:	DECISION
PCT No.: PCT/IB2005/000505	:	
Int. Filing Date: 28 February 2005	:	ON PETITION UNDER
Priority Date: None	:	
Docket No.: 915-007.262	:	37 CFR 1.10(c)
For: SUPPORTING A SATELLITE BASED	:	
POSITIONING	:	

This decision is in response to applicant's Petition Under 37 C.F.R. §1.10(c) to correct the receipt date of the basic national fee, filed in the United States Patent and Trademark Office on 03 March 2008.

BACKGROUND

On 28 February 2005, applicant filed international application PCT/IB2005/000505. A copy of the international application was transmitted to the Office by the International Bureau on 31 August 2006. The thirty month period for paying the basic national fee expired at midnight on 28 August 2007.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a receipt date of 28 August 2007.

On 03 October 2007 and on 03 March 2008, applicant filed a petition to correct the receipt date.

DISCUSSION

In this petition, applicant requests that the receipt date of this application be amended to 27 August 2007. The "date in" field on the Express Mail label reads "8/27/07". The requirements for a petition to correct a receipt date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

> (c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Items (1), (2) and (3) have been met. The petition was filed promptly. The Express Mail mailing label number was listed on the correspondence. Applicant has furnished a copy of the Express Mail mailing label, bearing the USPS postmark and a letter from USPS indicating that the postmark is the "date in".

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(c) to correct the receipt date of the filing to 27 August 2007 is **GRANTED**.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for further action consistent with this decision, including the mailing of a Notification of Missing Requirements, indicating that an oath or declaration of the inventors and the surcharge for furnishing the search fee, examination fee or oath or declaration after 30 months were required.

/Erin P. Thomson/

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BC

November 16, 2009

In re application of Kazukuni Hase et al. Serial No. 11/885,213 Filed: August 28, 2007 For: HOT FORGED PRODUCT WITH EXCELLENT FATIGUE STRENGTH, METHODS FOR MAKING THE SAME, AND MACHINE STRUCTURAL PART MADE FROM THE 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 and the petition under 37 CFR 1.102(d) to make the above-identified application special filed October 07, 2009.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and

b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
Further, if a copy of the documents from (i) or (ii) is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition fail because:
(2) It is unclear if the claims in Exhibit A are the allowable/patentable claims from the JPO application, since they are simply referred to as "Priority Application in English." Additionally, there is no statement/verification that the English translation of the claims in Exhibit A are accurate.

(5) No copies of the JPO office actions were submitted. Contrary to the Transmittal Letter of 10/07/2009, no copy of any Japanese Office Action was filed. There was a copy of the Japanese Application and a verified translation of the Japanese Application, but this does not satisfy requirement (5) above.

Applicant is given a time period of **ONE MONTH OR THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected within the time period given, the application with await action in its regular turn.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

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.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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December 16, 2009 BC

In re application of Kazukuni Hase et al. Serial No. 11/885,213 Filed: August 28, 2007 For: HOT FORGED PRODUCT WITH EXCELLENT FATIGUE STRENGTH, METHODS FOR MAKING THE SAME, AND MACHINE STRUCTURAL PART MADE FROM THE 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 and the petition under 37 CFR 1.102(d) to make the above-identified application special filed December 11, 2009.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:

a. Documentation of prior office action:

i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or

ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or

iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

Further, if a copy of the documents from (i) or (ii) is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;

b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and

c. A statement that the English translation is accurate;

(6) Applicant must submit:

a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)

b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

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.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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In re Application of	:	
POLAT	:	
Application No.: 11/885,229	:	DECISION ON
PCT No.: PCT/IL2005/000927	:	
Int. Filing Date: 31 August 2005	:	PETITION UNDER
Priority Date: 03 September 2004	:	
Attorney Docket No.: P-9584-US	:	37 CFR 1.137(b)
For: SYSTEMS AND METHODS FOR	:	
IMPROVING VISUAL PERCEPTION	:	

This decision is in response to applicants' submission filed 28 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 August 2005 , applicant filed international application PCT/IL2005/000927 which designated the U.S. and claimed a priority date of 03 September 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 09 March 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2007 (03 March 2007 being a Saturday).

On 28 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an assertion of small entity status, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 28 August 2007.

As to item (2), applicant submitted the petition fee on 28 August 2007.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of inventors filed 28 August 2007 is not in compliance with 37 CFR 1.497(a)-(b) because it is not executed.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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10/01/2007 SBASHEIR 00000005 503355 11885229
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In re Application of	:	
POLAT	:	
Application No.: 11/885,229	:	DECISION ON
PCT No.: PCT/IL2005/000927	:	
Int. Filing Date: 31 August 2005	:	PETITION
Priority Date: 03 September 2004	:	
Attorney Docket No.: P-9584-US	:	
For: SYSTEMS AND METHODS FOR	:	
IMPROVING VISUAL PERCEPTION	:	

This decision is in response to applicants' petition under 37 CFR 1.181 filed 18 December 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 August 2005 , applicant filed international application PCT/IL2005/000927 which designated the U.S. and claimed a priority date of 03 September 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 09 March 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2007 (03 March 2007 being a Saturday).

On 28 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an assertion of small entity status, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

On 01 October 2007, a decision was mailed granting applicant's petition under 37 CFR 1.137(b).

On 18 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 18 December 2008, applicant filed the instant petition under 37 CFR 1.181 which was accompanied by, *inter alia*, a declaration of the inventor.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

Item (3) has not been met. MPEP § 711.03(c), para. I.A. states that 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." Although a mail log has been provided, such a docket report has not.

Declaration of the Inventor

The declaration filed 18 December 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application is abandoned as to the United States of America for failure to timely file a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 18 March 2008.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office

of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

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In re Application of	:	
POLAT	:	
Application No.: 11/885,229	:	DECISION ON
PCT No.: PCT/IL2005/000927	:	
Int. Filing Date: 31 August 2005	:	PETITION
Priority Date: 03 September 2004	:	
Attorney Docket No.: P-9584-US	:	
For: SYSTEMS AND METHODS FOR	:	
IMPROVING VISUAL PERCEPTION	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.181 filed 07 April 2009 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 August 2005 , applicant filed international application PCT/IL2005/000927 which designated the U.S. and claimed a priority date of 03 September 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 09 March 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2007 (03 March 2007 being a Saturday).

On 28 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an assertion of small entity status, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

On 01 October 2007, a decision was mailed granting applicant's petition under 37 CFR 1.137(b).

On 18 March 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 18 December 2008, applicant filed a petition under 37 CFR 1.181 which was accompanied by, *inter alia*, a declaration of the inventor.

On 09 March 2009, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.181. Specifically, it was noted that the docket report provided was not sufficient.

On 07 April 2009, applicants filed the instant renewed petition.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting 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 (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 09 March 2009, items (1) and (2) have been met.

Item (3) has now been met as well. MPEP § 711.03(c), para. I.A. states that 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." Such a docket report has been provided.

Declaration of the Inventor

The declaration filed 18 December 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 18 March 2008 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

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In re Application of STEMMLE, Denis J. Application No.: 11/885,230 PCT No.: PCT/US2005/044406 Int. Filing Date: 07 December 2005 Priority Date: 07 December 2004 Docket No.: F-929-O2 For: METHOD AND SYSTEM FOR GPS AUGMENTATION OF MAIL CARRIER EFFICIENCY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 28 August 2007 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has supplied a declaration of inventorship in compliance with 37 CFR 1.497(a)-(b). The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 16-1885, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 August 2007.

/Erin P. Thomson/

Erin P. Thomson
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In re Application of:	
STEMMLE, Denis, J., et al.	DECISION ON PETITION
U.S. Application No.: 11/885,231	(37 CFR 1.137(b))
Int'l Application No: PCT/US2005/044560	
Int'l Filing Date: 07 December 2005	
Priority Date: 07 December 2004	
Atty Docket No.: F-929-01	
For: SYSTEM AND METHOD FOR FULL ESCORT MIXED MAIL SORTER USING MAIL CLAMPS	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed 28 August 2007. Applicant has paid the required petition fee.

BACKGROUND

On 07 December 2005, applicants filed international application PCT/US2005/044560. The application claimed an earlier priority date of 07 December 2004, and it designated the United States. The deadline for filing the basic national fee was thirty months from the priority date, i.e., 07 June 2007.

Applicants did not file the basic national fee prior to the expiration of the thirty month deadline. Accordingly, international application PCT/US2005/044560 became abandoned with respect to the United States as of midnight on 07 June 2007.

On 28 August 2007, applicants filed a Transmittal Letter requesting entry into the U.S. national stage for PCT/US2005/044560, accompanied by, among other materials, payment of the basic national fee and the petition for revival considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy the above requirements because the petition is ambiguous with respect to what application petitioner is seeking to revive. Specifically, while the national stage papers filed herein are directed to international application PCT/US2005/044560, the caption of the petition refers to international application PCT/US2005/044460 (as well as U.S. provisional application 60/634,014). Because of this inconsistency, the petition as submitted cannot be treated as a request to revive international application PCT/US2005/044560, as required for the present national stage application to move forward, nor can the statement of unintentional delay contained therein be applied to the delay in filing the national stage of PCT/US2005/44560.

It is also noted that the declaration included with applicants' 28 August 2007 submission is defective in that it executes a separate international application number (PCT/US2005/044413) and is not executed by all the inventors herein.

CONCLUSION

Applicants' petition for revival of international application under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any request for reconsideration should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and it must include the requirements of 37 CFR 1.137(b), including a clear indication as to the application which petitioner is seeking to revive (presumably PCT/US2005/044560).

No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

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0 9 NOV 2007

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Karen A. RUSSO
PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON CT 06484-8000

In re Application of:	
STEMMLE, Denis, J., et al.	DECISION ON RNEWED PETITION (37 CFR 1.137(b))
U.S. Application No.: 11/885,231	
Int'l Application No: PCT/US2005/044560	
Int'l Filing Date: 07 December 2005	
Priority Date: 07 December 2004	
Atty Docket No.: F-929-01	
For: SYSTEM AND METHOD FOR FULL ESCORT MIXED MAIL SORTER USING MAIL CLAMPS	

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.137(b), filed 29 October 2007. Applicant has previously paid the required petition fee.

BACKGROUND

The procedural background of this application was set forth in the previous decision mailed on 26 September 2007. That decision dismissed applicants' original petition for failure to satisfy all the requirements of a grantable petition. Specifically, applicants' petition was found to be ambiguous with respect to the application to which it was directed. The decision also noted a defect in the declaration filed by applicants.

DISCUSSION

Applicants' original petition was found ambiguous because, while the national stage papers herein are directed to international application PCT/US2005/044560, the caption of the petition referred to international application PCT/US2005/044460 (as well as U.S. provisional application 60/634,014). In the renewed petition, applicants have corrected this defect, submitting a corrected petition form that specifically refers to PCT/US2005/044560. The present submission also explains that the defect in the original petition was the result of a typographical error.

The renewed petition includes the statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," and this statement is now clearly directed to international

application PCT/US2005/044560. Accordingly, the requirement of 37 CFR 1.137(b)(3) is considered satisfied.

Applicant has submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the international application is granted as to the national stage in the United States of America.

It is noted that applicant's 29 October 2007 submission includes a revised declaration. However, this declaration remain defective for failure to identify and be executed by all of the inventors of record herein, i.e., Denis J. STEMMLE and Douglas B. QUINE (see MPEP section 1893.01(e): "The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application").

CONCLUSION

Applicants' renewed petition for revival of international application PCT/US2005/044560 under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

2 6 SEP 2007

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Pitney Bowes Inc.
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Shelton, CT 06484-8000

In re Application of
HAAS, Bertrand.
Application No.: 11/885,232
PCT No.: PCT/US06/04207
Int. Filing Date: 03 February 2006
Priority Date: 03 February 2005
Attorney Docket No.: F-977-O1
For: METHOD FOR TWO-CHANNEL CODING OF A MESSAGE

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

0 1 OCT 2007

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Karin A. Russo
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In re Application of STEMMLE, Denis J. Application No.: 11/885,242 PCT No.: PCT/US05/44413 Int. Filing Date: 07 December 2005 Priority Date: 07 December 2004 Attorney Docket No.: F-929-O3 For: CLAMP FOR MIXED MAIL SORTER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

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APR 12 2010

OFFICE OF PETITIONS

LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE MD 20855

In re Application of	:	
Harren et al.	:	
Application No. 11/885,250	:	ON APPLICATION FOR
Filed: January 25, 2008	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 7601/10200	:	
Title: HYDROLYTICALLY STABLE	:	
POSTCROSSLINKED SUPERABSORBENTS	:	

This is a decision on the "REQUEST FOR RECONSIDREATION FOR PATENT TERM CALCULATION," filed January 22, 2010. This petition is properly treated under 37 CFR §1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is sixty (60) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **Dismissed**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On November 25, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 0 days. Applicants contend an adjustment of 142 days is required.

The Office has considered applicants' argument but does not find it persuasive.

Applicants contend that an adjustment of 142 days is required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application fulfilled the

requirements under 35 U.S.C. 371, pursuant to § 1.702(a)(1). Thus, an adjustment of 142 days is not warranted as 14 months from January 25, 2008 is March 25, 2009. A non-final Office action was mailed on March 19, 2009, which is within 14 months after the application fulfilled the requirements of 35 U.S.C. 371 on January 25, 2008.

Applicants do not dispute the 82 day reduction pursuant to 37 CFR 1.704(b).

As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is zero (0) days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant, at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

1/9/08

In re Application of	:	
Nakagawa, Norihisa	:	DECISION ON REQUEST TO
Application No. 11/885,266	:	PARTICIPATE IN PATENT
Filed: Aug. 29, 2207	:	PROSECUTION HIGHWAY
Attorney Docket No. 133740	:	PILOT PROGRAM AND PETITION
For: AIR-FUEL RATIO CONTROL	:	TO MAKE SPECIAL UNDER
SYSTEM OF INTERNAL	:	37 CFR 1.102(d)
COMBUSTION ENGINE	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(d), filed Dec. 10, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Receipt of the IDS and a copy of Japanese patent publications are acknowledged. 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 Stephen Cronin, SPE of Art Unit 3747, 571-272-3700.

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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/28/2010

Applicant	: Volker Maier	: DECISION ON REQUEST FOR
Patent Number	: 7606630	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/885,268	: OF WYETH
Filed	: 08/28/2007	:
		:

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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1875 EYE STREET, NW
SUITE 1200
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Bohm et al.	:	DECISION ON PETITION
Application No. 11/885,269	:	TO WITHDRAW
Filed: March 25, 2008	:	FROM RECORD
Attorney Docket No. 119010-266	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

The request is **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 Kevin R. Spivak on behalf of all attorneys of record who are associated with Customer No. 87133.

All attorneys/agents associated with Customer Number 87133 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
Petitions Examiner
Office of Petitions

cc: Nokia Siemens Networks GmbH & Co. KG
CTO RTP IPR/Patent Administration
Munich, Germany 80240

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1 3 JAN 2009

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MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

In re Application of	:	DECISION ON PETITION
IHM et al.	:	
Application No.: 11/885,303	:	UNDER
PCT No.: PCT/KR06/00701	:	
Int'l Filing date: 28 February 2006	:	37 CFR 1.182
Priority Date: 04 March 2005	:	
Attorney Docket No.: 32584-1080	:	
For: A METHOD OF TRANSMITTING	:	
FEEDBACK INFORMATION IN A MULTI-	:	
INPUT, MULTI-OUTPUT SYSTEM		

This is a decision on applicant's "Petition under 37 CFR 1.182" filed in the United States Patent and Trademark Office on 20 November 2008.

On 28 August 2008, applicant filed a request for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee. The papers were assigned serial number 11/885,303. However the international application PCT/KR06/00701 as indicated on the transmittal letter differs from the PCT application number PCT/KR06/00710 on the application data sheet submitted.

On 14 November 2008, the undersigned contacted the attorney of record to advise of this discrepancy. On 20 November 2008, the instant petition under 37 CFR 1.182 was filed.

Applicant's petition under 37 CFR 1.182 to correct the international application no. to **PCT/KR06/00701** on the national stage papers filed on 28 August 2008 is **GRANTED.** The $400 petition fee will be charged to applicant's deposit account per his authorization.

The USPTO records will identify the present application 11/885,303 as the national stage of **PCT/KR06/00701.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571)272-3286
Facsimile: (571)273-0459

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ALEXANDRIA, VA 22313-1450

12 OCT 2007

Tyler J. Sisk
Casimir Jones
101 Howard Street, Suite 350
San Francisco CA 94105

In re Application of:
METZGER, Joseph, et al.
U.S. Application No.: 11/885,304
Int'l Application No: PCT/US2006/006862
Int'l Filing Date: 27 February 2006
Priority Date: 25 February 2005
Atty Docket No.: UM-30088
For: COMPOSITIONS AND METHODS FOR TREATING AND PREVENTING CARDIOMYOPATHY AND HEART DISEASE

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

1 7 OCT 2008

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Friedrich Kueffner
317 Madison Avenue, Suite 910
New York, NY 10017

In re Application of
GELDMACHER, Alexander
Application No.: 11/885,312
PCT No.: PCT/EP06/01745
Int. Filing Date: 24 February 2006
Priority Date: 02 March 2005
Attorney Docket No.: BM-207PCT
For: ELECTRONIC KEY

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to applicant's "Response to Notification of Missing Requirements" dated 18 August 2008 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. Applicant is requesting to change the name of the sole inventor from Alexander Jeschke to Alexander Geldmacher due to marriage.

BACKGROUND

On 29 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; an English translation of the international application; and an executed declaration.

On 16 April 2008, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 18 August 2008 , applicant filed a petition under 37 CFR 1.182.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

Applicant is requesting to change the name of the sole inventor from Alexander Jeschke to Alexander Geldmacher. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the sole inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a copy of the court order."

Here, applicant's submission included the authorization to charge Deposit Account No. 11-1835 for required fees. Based on this authorization, Deposit Account No. 11-1835 will be charged the requisite petition fee of $400, satisfying the petition fee requirement. As for the affidavit requirement or copy of the court order, applicant has submitted a "Erklaurung sur Namesfuhrund in der Ehe nach deutschem Recht" (court order) regarding the name change and a translation thereof. Hence, the court order supplied satisfies the requirements for a grantable petition. Therefore, item (2) has been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.182 to change the name of record for inventor Alexander Jeschke to Alexander Geldmacher is GRANTED.

Based on the above, the declaration filed 29 August 2007 is in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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MAY 14 2010

OFFICE OF PETITIONS

Applicant: Gonohe, et al.
Appl. No.: 11/885,341
International Filing Date: March 3, 2006
Title: METHOD FOR FORMING TANTALUM NITRIDE FILM
Attorney Docket No.: 029929-00018
Pub. No.: US 2009/0159430 A1
Pub. Date: June 25, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) or (a), received on August 25, 2009, 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.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

1 2 OCT 2007

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5683 RIVERDALE AVENUE
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BRONX, NY 10471-0900

In re Application of	:	
BLUM	:	
Application No.: 11/885,369	:	DECISION ON
PCT No.: PCT/EP2006/001467	:	
Int. Filing Date: 17 February 2006	:	PETITION UNDER
Priority Date: 18 February 2005	:	
Attorney Docket No.: 24012	:	37 CFR 1.137(b)
For: MEMBRANE MODULE FOR	:	
SEPARATING MATERIAL	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed 30 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 February 2006, applicant filed international application PCT/EP2006/001467 which designated the U.S. and claimed a priority date of 18 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 24 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 August 2007 (18 August 2007 being a Saturday).

On 30 August 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, a purported translation of the international application as filed, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 30 August 2007.

As to item (2), applicant submitted the petition fee on 30 August 2007.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Translation

The translation filed 30 August 2007 is not an accurate translation of the international application as filed. The translation of text matter in a drawing must be in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew. PCT Rules 76.5 and 49.5(d). The translation filed 30 August 2007 contains foreign text in Fig. 1. Thus, the translation is defective. An accurate translation of the international application as filed is required in order to comply with 35 U.S.C. 371.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b), the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, a translation of Fig. 1 of the international application as filed, and the processing fee under 37 CFR 1.492(i) for providing the English translation later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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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.
11/885,372	08/30/2007	Tony Verbeuren	SERVIER 524 PCT	4479

25666 7590 06/18/2010
THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007

EXAMINER
BLAKELY III, NELSON CLARENCE

ART UNIT	PAPER NUMBER
1614	

MAIL DATE	DELIVERY MODE
06/18/2010	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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JUN 1 8 2010

THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

In re Application of: VERBEUREN et al.	:	
Serial No: 11/885,372	:	DECISION
Filed: August 30, 2007	:	ON
Attorney Docket No: SERVIER 524 PCT	:	PETITION
Title: **USE OF DIOSMETIN COMPOUNDS IN THE TREATMENT AND PREVENTION OF THROMBOTIC PATHOLOGIES**	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on February 19, 2010.

BACKGROUND

This application was filed as a national stage application in compliance with 35 USC 371 and as such is subject to PCT unity of invention rules.

On June 1, 2009 the Examiner set forth a Requirement for Restriction/Election requiring applicant to elect a species from the Markush group represented by formula (I) and a species from those encompassed by thrombotic pathology. The Examiner asserted that the compounds of formula (I) lacked a common special technical feature based on lack of a common core as evidenced by the varying possibilities for the R_4 substituent.

In the response of July 6, 2009 applicant's elected 6,8-diallyl-5,7-dihydroxy-2-(2-allyl-3-hydroxy-4-methoxyphenyl)-4H-1-benzopyran-4-one of formula XVII with traverse but did not elect a species of thrombotic pathology.

Applicant argued:

> The Applicants traverse the Restriction Requirement on the basis that what the Office identifies as distinct inventions are actually species which define a genus of diosmetin compounds having the claimed performance characteristics. The special technical feature common to the diosmetin compounds of the invention is the prevention and/or treatment of thrombotic pathologies, which special technical feature defines a contribution over the prior art.
>
> . . .
>
> Moreover, the Applicants traverse the Office requirement for election between "patentably distinct species" on the grounds that the Office has provided no substantiation for the allegation that the species, having varying structural moieties, do not share a technical relationship. The common core structure of the diosmetin compounds of the invention is defined by general formula (I), and is the significant structural element shared by all of the alternatives. Since all diosmetin compounds of the invention demonstrate the same utility, for the prevention and/or treatment of thrombotic pathologies, unity is present.

In the Non-Final Rejection of October 15, 2009 the Examiner maintained the requirement and argued:

> This is not found persuasive. Burden consists not only of specific searching of classes and subclasses, but also of searching multiple databases for foreign references and literature searches. Burden also resides in the examination of independent claim set for clarity, enablement and double patenting issues. Further, a reference that would anticipate the invention of one species would not necessarily anticipate, or even make obvious, another species. Finally, the consideration for patentability is different in each case.

DISCUSSION

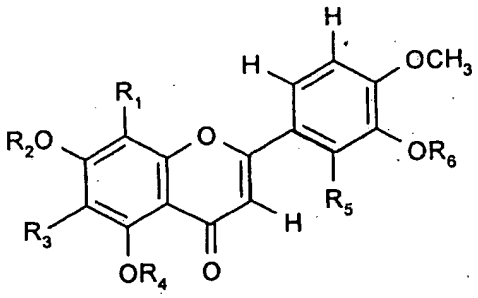
With respect to Unity of Invention and Markush Practice the M.P.E.P. teaches:

> (f) " Markush Practice " . The situation involving the so-called "Markush practice" , wherein a single claim defines alternatives (chemical or non-chemical) is also governed by Rule 13.2. In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in Rule 13.2, shall be considered to be met when the alternatives are of a similar nature.
> (i) When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
> (A) all alternatives have a common property or activity, and
> (B) (1) a common structure is present, i.e., a significant structural element is shared by all of the alternatives, or

(B) (2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.
(ii) In paragraph (f)(i)(B)(1), above, the words "significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The structural element may be a single component or a combination of individual components linked together.

Appendix B Unity of Invention
Administrative Instructions Under the PCT

In the instant claims the compounds to be used in the claimed methods are represented by:



(I),

Compounds of formula (I) above are known in the art and the plural ring structure is a recognized common core. If the claims under examination were directed to compounds or compositions there would clearly be a lack of a special technical feature because there would be prior art.

In the Office Action of October 15, 2009 the examiner rejected claim 11 as anticipated by Wierzbicki et al. (US 5,629,339) and claims 7-11 as obvious over the combined teachings of Wierzbicki et al. (US 5,629,339) and the Merck Manual.

The Office Action of October 15, 2009 establishes a Lack of Unity with regard to the recited method claims but relies on a different rationale than that originally presented by the Examiner.

Therefore, it would be proper to restrict claims 7-11 to a single species within the claims. However, applicant has not been afforded an opportunity to traverse.

It is noted that the Examiner's arguments concerning applicant's traversal emphasize issues relevant to US restriction practice and not those with regard to Lack of Unity.

DECISION

The petition is **DISMISSED** for the reasons set forth above.

The Finality of the restriction requirement is withdrawn in view of the new holding of Lack of Unity of Invention.

Should there be any questions about this decision, please contact Quality Assurance Specialist Michael P. Woodward, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-8373 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Irem (Remy) Yucel
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450

NEXSEN PRUET, LLC
P.O. BOX 10648
GREENVILLE SC 29603

15 OCT 2007

In re Application of: BRAUNE, Bert, et al.
U.S. Application No.: 11/885,374
Int'l Application No: PCT/DE2004/000361
Int'l Filing Date: 28 February 2006
Priority Date: 28 February 2005
Atty Docket No.: 41227-04
For: METHOD FOR PRODUCING AN OPTICAL, RADIATION-EMITTING COMPONENT ...

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

Applicants' 30 August 2007 filing included an English translation of the international application as filed. Deposit Account No. 08-0719 will be charged the $130 processing fee for filing the English translation later than thirty months after the priority date.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905). It is noted that applicants have not filed an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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ALEXANDRIA, VA 22313-1450

12 OCT 2007

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of:
HOKE, Glenn, D., et al.
U.S. Application No.: 11/885,384
Int'l Application No: PCT/US2004/034510
Int'l Filing Date: 20 October 2004
Priority Date: 21 October 2003
Atty Docket No.: 060567-5001
For: METHODS AND COMPOSITIONS FOR TREATING 5α-REDUCTASE TYPE 1 AND TYPE 2 DEPENDENT CONDITIONS

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

The statements in the petition, including the statement that "the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfy the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905). It is noted that applicants have not filed an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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12 OCT 2007

Wilmer Cutler Pickering Hale
and Dorr LLP
399 Park Avenue
New York, New York 10022

In re Application of	:	DECISION ON
MAYBAUM et al	:	
Application No.: 11/885,391	:	
PCT No.: PCT/US2004/034426	:	
Int. Filing Date: 13 October 2004	:	PETITION UNDER
Priority Date: 14 October 2003	:	
Attorney's Docket No.: 19240.308 US2	:	
For: COMPOSITION AND METHODS FOR	:	
TREATING HEART FAILURE	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 C.F.R. 1.137(f))," filed on 27 August 2007.

BACKGROUND

On 13 October 2004, this international application was filed, claiming an earliest priority date of 14 October 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 14 April 2006. This international application became abandoned with respect to the United States at midnight on 14 April 2006 for failure to pay the required basic national fee.

On 27 August 2007, applicant filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee. However, no executed declaration was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 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; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The 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 § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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09 MAY 2008

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of BECKER et al	:	
U.S. Application No.: 11/885,408	:	
PCT Application No.: PCT/EP2005/001578	:	
Int. Filing Date: 22 February 2006	:	DECISION
Priority Date Claimed: 04 March 2005	:	
Attorney Docket No.: 095309.58840US	:	
For: CONTROL APPLIANCE COMPRISING	:	
CONFIGURABLE HARDWARE MODULES	:	

This is in response to the executed declarations filed 27 March 2008, which are being treated collectively as a request for status under 37 CFR 1.42.

BACKGROUND

On 22 February 2006, applicant filed international application PCT/EP2005/001578, which claimed priority of an earlier Germany application filed 04 March 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 14 September 2006. The thirty-month period for paying the basic national fee in the United States expired on 04 September 2007.

On 30 August 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 March 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 27 March 2008, applicant filed the present request for status under 37 CFR 1.42 along with executed declarations.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declarations filed 27 March 2008 are in compliance with 37 CFR 1.42 and 1.497.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 February 2006, and a date under 35 U.S.C. 371(c) of 27 March 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

2 8 SEP 2007

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Brinks Hofer Gilson & Leone
NBC Tower, Suite 3600
P.O. Box 10395
Chicago, IL 60610

In re Application of	:	
Gerdes	:	
Application No.: 11/885,446	:	
PCT No.: PCT/EP06/50864	:	
Int. Filing Date: 10 February 2006	:	DECISION
Priority Date: 10 February 2005	:	
Attorney Docket No.: 13516/3	:	
For: Cap-Free Neck End For A Filler Neck	:	

The petition to revive under 37 CFR 1.137(b) filed on 29 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the failure to file a national application in the United States by the August 10, 2007 deadline was unintentional. Furthermore, your Petitioner further states that the entire delay in filing the national application from the initial due date of August 10, 2007 until the filing of the present Petition was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The English translation of the international application appears to be defective in that the international application as published on 17 August 2006 includes 36 claims, while the translation includes 37.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an acceptable English translation of the international application, the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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0 7 JAN 2008

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In re Application of	:	
Gerdes	:	
Application No.: 11/885,446	:	
PCT No.: PCT/EP06/50864	:	
Int. Filing Date: 10 February 2006	:	DECISION
Priority Date: 10 February 2005	:	
Attorney Docket No.: 13516/3	:	
For: Cap-Free Neck End For A Filler Neck	:	

This is a decision on the petition to revive under 37 CFR 1.137(a) filed on 09 October 2007.

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.137(b) filed on 29 August 2007 was GRANTED. Therefore, since this international application has been restored to pending status with respect to the national stage in the United States, the instant petition to revive under 37 CFR 1.137(a) is moot. The $255.00 petition fee paid on 09 October 2007 is being refunded to Deposit Account 23-1925, per the authorization filed on 29 August 2007.

As noted in the Decision mailed on 28 September 2007, the English translation of the international application appears to be defective in that the international application as published on 17 August 2006 includes 36 claims, while the translation includes 37.

DECISION

The petition is **DISMISSED AS MOOT**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an acceptable English translation of the international application, the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i).

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UNITED STATES PATENT AND TRADEMARK OFFICE

0 7 AUG 2009

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Ronald SNIDER
SNIDER & ASSOCIATES
P.O. Box 27613
Washington, D.C. 20038-7613

In re Application of	:	
SAITO, Yoshinobu, et al.	:	DECISION ON REQUEST
U.S. Application No.: 11/885,454	:	FOR WITHDRAWAL AS
PCT No.: PCT/JP2006/324914	:	ATTORNEY OF RECORD
Int. Filing Date: 14 December 2006	:	
Priority Date: 19 December 2005	:	
Attorney Docket No.: TAK-194-PCT	:	
For: FILMY COMPOSITIONS	:	

This decision is in response to the "Request For Withdrawal As Attorney Or Agent And Change Of Correspondence Address" (Form PTO/SB/83) filed 11 March 2008.

The applicable criteria for submitting a proper withdrawal of attorney in a national stage application at the time the present request was filed are those set forth in Section 402.06 of the Manual of Patent Examining Procedure (MPEP), which reads, in part, as follows:

> In the event that a notice of withdrawal is filed by an attorney or agent of record, the file will be forwarded to the appropriate official for decision on the request. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney or agent, under 37 CFR 1.36(b), Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of himself or herself and another. A withdrawal of another attorney or agent of record, without also withdrawing the attorney or agent signing the request is a revocation, not a withdrawal.
>
> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between *approval* of the withdrawal and the latter of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action.

There is no pending Office communication in this application for which the time period for response will expire in the next 30 days.

Because all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with, the request for withdrawal as attorney of record by Ronald SNIDER is appropriately **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

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2 3 JAN 2009

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26371
FOLEY AND LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306

In re Application of
PISCAER *et al*
U.S. Application No.: 11/885,465
PCT No.: PCT/NL2006/000113
Int. Filing Date: 03 March 2006
Priority Date: 04 March 2005
Attorney Docket No.: 079811-0153
For: APPARATUS FOR PREPARING AND DISPENSING BEVERAGES WHICH MAY OR MAY NOT BE AT LEAST PARTLY FOAMED

DECISION

This communication is in response to the "Request for Corrected Filing Receipt" mailed on 02 July 2008 which is hereby **GRANTED** as follows:

Applicants request a new filing receipt as the names of the inventors on the filing receipt contain several errors. A review of the application shows that the Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt mailed in the above-captioned application on 02 April 2008 were both sent in error. A declaration in compliance with 37 CFR 1.497(a) and (b) was not yet submitted. Therefore, the Form PCT/DO/EO/903 and filing receipt mailed 02 April 2008 are **VACATED**.

Applicants submitted an executed declaration on 02 July 2008. The $130.00 surcharge fee has been charged to Deposit Account No. 19-0741 as authorized.

A corrected Form PCT/DO/EO/903 and filing receipt were mailed on 16 January 2009 noting the change in receipt of 35 U.S.C. 371 requirements and names of the inventors

This application is being forwarded to AU 3754 for examination.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302