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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Jordi Gatnau Navarro	: DECISION ON REQUEST FOR
Patent Number	: 7591667	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/885,490	: OF WYETH
Filed	: 05/06/2008	:
		:

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.

18 AUG 2008

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:	
BECKER et al.	:	DECISION ON
Application No.: 11/885,499	:	
PCT No.: PCT/EP2006/001579	:	PAPERS
Int. Filing Date: 22 February 2006	:	
Priority Date: 04 March 2005	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 095309.58839US	:	
For: METHOD AND DEVICE FOR EXECUTING PRIORITIZED CONTROL PROCESSES	:	

This is a decision on the submission filed by applicants on 18 April 2008, which was accompanied by, *inter alia*, several declarations of inventors. The indication in these declarations that joint inventor Joachim Eisenmann is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 22 February 2006, applicants filed international application PCT/EP2006/001579, which designated the US and claimed a priority date of 04 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 September 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 September 2007.

On 31 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 20 April 2008, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (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. The NOTIFICATION set a two-month extendable time period for reply.

On 18 April 2008, applicants filed the instant submission, which was accompanied by, *inter alia*, several declarations of inventors and a Supplemental Application Data Sheet (ADS).

DISCUSSION

The declarations of inventors filed 18 April 2008 and the Supplemental ADS filed 18 April 2008 contain conflicting information. The declarations list Sibylle Corenelia Eisenmann as the legal representative of the deceased inventor and as the legal representative of two minor heirs of Joachim Eisenmann–Markus Fabian Eisenmann and Tobias Eisenmann. The Supplemental ADS, however, lists Sibylle Corenelia Eisenmann, Markus Fabian Eisenmann, and Tobias Eisenmann all as legal representatives of the deceased inventor Joachim Eisenmann.

If Sibylle Corenelia Eisenmann is the legal representative of the deceased inventor, then her information and signature are required on the declaration of inventors but not the information and signature of the two minor heirs. A new declaration of inventors listing only Sibylle Corenelia Eisenmann as the legal representative and otherwise in compliance with 37 CFR 1.497(a)-(b) would be required. A new Supplemental ADS would be required as well.

If Sibylle Corenelia Eisenmann, Markus Fabian Eisenmann, and Tobias Eisenmann are signing as all the heirs and no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed, then this should be stated either by those signing or by the attorney. A new Supplemental ADS would be required as well.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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.

Applicant is required to submit a proper declaration 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."

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

13 APR 2009

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P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:	
BECKER et al.	:	DECISION ON
Application No.: 11/885,499	:	
PCT No.: PCT/EP2006/001579	:	PAPERS
Int. Filing Date: 22 February 2006	:	
Priority Date: 04 March 2005	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 095309.58839US	:	
For: METHOD AND DEVICE FOR EXECUTING PRIORITIZED CONTROL PROCESSES	:	

This is a decision on the renewed request under 37 CFR 1.42 filed by applicants on 14 January 2009.

BACKGROUND

On 22 February 2006, applicants filed international application PCT/EP2006/001579, which designated the US and claimed a priority date of 04 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 September 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 September 2007.

On 31 August 2007, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 20 April 2008, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (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. The NOTIFICATION set a two-month extendable time period for reply.

On 18 April 2008, applicants filed a submission, which was accompanied by, *inter alia*, several declarations of inventors and a Supplemental Application Data Sheet (ADS). The indication in these declarations that joint inventor Joachim Eisenmann is deceased was treated as a request for status under 37 CFR 1.42.

On 18 August 2008, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. Specifically, it was noted that the declarations of inventors filed 18 April 2008 and the Supplemental ADS filed 18 April 2008 contained conflicting information as to who were heirs and who were legal representatives of the deceased inventor.

On 14 January 2009, applicants filed the instant renewed request for status under 37 CFR 1.42, which was accompanied by, *inter alia*, several declarations of inventors and a Supplemental ADS.

DISCUSSION

The submission filed 14 January 2009 has been reviewed and has been found in compliance with 37 CFR 1.42. The declarations filed 14 January 2009 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

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.

/Daniel Stemmer/

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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	:	
Erich Gottwald	:	DECISION ON PETITION
Application No. 11/885,579	:	TO WITHDRAW
Filed: September 4, 2007	:	FROM RECORD
Attorney Docket No. 2005P04042 (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
Petitions Examiner
Office of Petitions

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

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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON TX 77010

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OFFICE OF PETITIONS

Applicant: Pecoul, et al.
Appl. No.: 11/885,603
International Filing Date: February 26, 2006
Title: LOCK HAVING A SINGLE SWITCH
Attorney Docket No.: 17089/022001
Pub. No.: US 2008/0136196 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 July 14, 2008 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claim 1, wherein the letter "p" occurs after the word "switch" and in dependent claim 13, line 5, wherein the phrase "any one of the preceding claims, characterized in that" was not deleted.

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 wherein the letter "p" occurs after the word "switch" in claim 1 and wherein the phrase "any one of the preceding claims, characterized in that" was not deleted in dependent claim 13, line 5 may be Office errors, but they are not material Office errors under 37 CFR 1.221. The misprint of the letter "p" is a minor typographical error, which does not affect the understanding of the application. The failure to delete the text "any one of the preceding claims, characterized in that" in dependent claim 13 is also an Office error, but the error is a typographical error, which

[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).

is clear from the claim. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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.

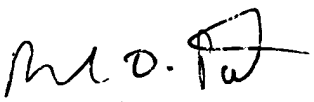
A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

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" and questions or request for reconsideration of the decision, should be addressed as follows:

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

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



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

10 APR 2009

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of	:	
Swamy	:	
Application No. 11/885,606	:	
PCT No.: PCT/US2006/007710	:	
Int. Filing Date: 03 March 2006	:	DECISION
Eff. Priority Date: 04 March 2005	:	
Atty. Docket No.: 63044US (49947)	:	
For: Compositions And Methods For Cancer Treatment	:	

This is in response to the declaration of the inventors filed on 28 August 2008, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 03 March 2006, claimed an earlier priority date of 04 March 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 04 September 2007. Applicants filed, *inter alia*, the basic national fee on 31 August 2007.

On 03 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).

DISCUSSION

Review of the declaration filed on 28 August 2008 reveals that it indicates that inventor Swamy is deceased. 37 CFR 1.42 provides in part that

> 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.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declaration is signed by Hema Sundaresha on behalf of the deceased inventor in the capacity of "legal representative." The declaration provides citizenship, residence and postal

address information for both the deceased inventor and the legal representative. However, the declaration identifies the deceased inventor as "Narasimha Swamy," whereas the published international application nominated "NARASHIMHA, Swamy." This discrepancy clearly represents more than a mere typographical error or phonetic misspelling and, as such, a proper petition under 37 CFR 1.182 would be required to accept the inventor's name as it appears on the declaration. *See* MPEP 605.04(b) and 605.04(c). Therefore, it would not be appropriate to accept the declaration under 37 CFR 1.42 at this time.

DECISION

The declaration filed on 28 August 2008 is **NOT ACCEPTED** under 37 CFR 1.42, 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

3 1 AUG 2009

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EDWARDS ANGELL PALMER & DODGE LLP
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BOSTON MA 02205

In re Application of	:	
Swamy	:	
Application No. 11/885,606	:	
PCT No.: PCT/US2006/007710	:	
Int. Filing Date: 03 March 2006	:	DECISION
Eff. Priority Date: 04 March 2005	:	
Atty. Docket No.: 63044US (49947)	:	
For: Compositions And Methods For Cancer Treatment	:	

This is in response to the "Request For Reconsideration Of Decision Or Petition Under 37 C.F.R. § 1.182" filed on 10 July 2009. This submission is being treated under 37 CFR 1.42.

DISCUSSION

In a Decision mailed on 10 April 2009, the declaration filed on 28 August 2008 was not accepted under 37 CFR 1.42, without prejudice, because

> ...the declaration identifies the deceased inventor as "Narasimha Swamy," whereas the published international application nominated "NARASHIMHA, Swamy."...

In response, counsel argues that the discrepancy in the ordering of names occurred because of an error on the part of the USPTO during the international phase. Inspection of the PCT Request (Form PCT/RO/101) filed on 03 March 2006 reveals that "SWAMY (Deceased), Narashimha" is named therein as "applicant and inventor." This is consistent with applicant's position, and in view of the totality of the evidence of record, it would be appropriate to conclude that the inventor's surname in fact is correctly shown as "Swamy" on the declaration. Counsel further observes a discrepancy between the spelling of the inventor's given name in the Request form ("Narashimha") as opposed to the spelling appearing in the declaration ("Narasimha"), and attributes this discrepancy to a "mere typographical error." Based on this characterization, it would be appropriate the name as it appears in the declaration.

Upon further review, it is observed that the first page of the declaration indicates that legal representative Hema Sundaresha is "a citizen of India and a permanent resident of the United States of America," whereas the third page of the declaration shows a "Citizenship" of "United States of America." As such, the declaration does not clearly and unambiguously set forth the legal representative's citizenship, as required by 37 CFR 1.497(b)(2). Appropriate clarification and correction is required.

DECISION

The declaration filed on 28 August 2008 is **NOT ACCEPTED** under 37 CFR 1.42, 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

- 1 FEB 2010

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BOSTON MA 02205

In re Application of	:	
Swamy	:	
Application No. 11/885,606	:	
PCT No.: PCT/US2006/007710	:	
Int. Filing Date: 03 March 2006	:	DECISION
Eff. Priority Date: 04 March 2005	:	
Atty. Docket No.: 63044US (49947)	:	
For: Compositions And Methods For Cancer Treatment	:	

This is in response to the "Second Request For Reconsideration Of Decision Or Petition Under 37 C.F.R. § 1.182" filed on 30 November 2009. This submission is being treated under 37 CFR 1.42.

DISCUSSION

In a Decision mailed on 31 August 2009, the declaration filed on 28 August 2008 was not accepted under 37 CFR 1.42, without prejudice, because

> Upon further review, it is observed that the first page of the declaration indicates that legal representative Hema Sundaresha is "a citizen of India and a permanent resident of the United States of America," whereas the third page of the declaration shows a "Citizenship" of "United States of America." As such, the declaration does not clearly and unambiguously set forth the legal representative's citizenship, as required by 37 CFR 1.497(b)(2). Appropriate clarification and correction is required.

In response, counsel has filed a new declaration which cures the defects previously noted. This declaration is accepted under 37 CFR 1.42 for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The declaration filed on 30 November 2009 is **ACCEPTED** under 37 CFR 1.42.

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 **30 November 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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P.O. Box 14104
Clearwater FL 33766

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OFFICE OF PETITIONS

In re Application of :
Yong Rae Kim et al. :
Application No. 11/885,650 : DECISION ON PETITION
Filed: September 4, 2007 :
Attorney Docket No. 1023.001 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 23, 2008. A Notice of Abandonment was mailed on March 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 an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received January 6, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

12 MAR 2008

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Dowell & Dowell
Suite 406
2111 Eisenhower Avenue
Alexandria, VA 22314

In re Application of	
CRUDDEN et al.	
U.S. Application No. 11/885,672	
PCT No.: PCT/CA06/00332	PETITION UNDER
Int. Filing Date: 07 March 2006	37 CFR 1.47(a)
Priority Date: 07 March 2005	
Attorney Docket No.: 16087NP	
For: SOL GEL FUNCTIONALIZED SILICATE CATALYST AND SCAVENGER	

This decision is issued in response to applicants' "Submission of Declaration and Petition under 37 CFR 1.47(a)" filed 03 January 2008 to accept the application without the signature of joint-inventor, Alexandre Blanc.

BACKGROUND

On 07 March 2006, applicants filed international application PCT/CA06/00332 which claimed a priority date of 07 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 September 2006. 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, 05 September 2007.

On 05 September 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an application data sheet.

On 03 January 2008, applicants filed the present 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 materials executed by two of the three named inventors and containing an unsigned signature block for the non-signing inventor. However, a review of the declaration as filed reveals that it appears to be the combination of two separate declarations. The Declaration contains two pages; page one, executed by Cathleen Crudden and Mutyala Sateesh, on PTO/SB/01A form, and a second page, identifying Alexandre Blanc on a separate PTO/SB/01A form. Page one of the declaration does not refer to any supplemental pages or any additional inventors. At the bottom of page one of the declaration form, there is a box followed by a line which reads "Additional inventors are being named on the ___ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto." Applicants here did not check this box, nor did they fill in the blank to identify the number of additional sheets used. Without an adequate reference in the two page Declaration to the fact that additional sheets identifying additional inventors are to be attached, the Declaration is unacceptable.

In addition, when multiple "Additional Inventor(s)" sheets are submitted, it must be made clear that all such sheets were contained in the document executed by each inventor. Applicants should submit a single declaration executed by all signing inventors which clearly references the fact that a specific number of "Additional Inventor(s)" sheets are attached. If this cannot be achieved, then for each signing inventor applicants should submit a complete copy of the entire declaration. Each such declaration would include all the attached "Individual Inventor(s)" sheets and would therefore make clear that each signing inventor acknowledged the inclusion of each of the other inventors.

Regarding item (4) above, section 409.03(d) of the MPEP, **Proof of Unavailability or Refusal**, states, in part:

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

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner states that the Alexandre Blanc has refused to sign the application (see declaration of Cathleen M. Crudden). However, it is unclear whether Alexandre Blanc received a complete copy of the application papers (specification, claims, drawings and oath/declaration). Angela Lyon states that she forwarded a copy of the international application to Mr. Blanc on 08 March 2006 and 02 October 2006 via Queens's University internal mail. Both sets of papers were mailed prior to applicant entering the national stage in the United States and does not appear to have contained a declaration for the purposes of entering the national stage in the United States but merely an assignment document. As detailed above, the inventor must be presented with an oath or declaration for execution. Lastly, it is unclear whether Angela Lyon has knowledge of all the facts, in that, it appears that the international application was sent to Alexandre Blanc by Stephen Scribner.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, drawings and oath/declaration) were sent to Alexandre Blanc, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

CONCLUSION

For the above reasons, 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) MONTH** 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.

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
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

13 AUG 2008

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

Dowell & Dowell
Suite 406
2111 Eisenhower Avenue
Alexandria, VA 22314

In re Application of	:	
CRUDDEN et al.	:	
U.S. Application No. 11/885,672	:	
PCT No.: PCT/CA06/00332	:	PETITION UNDER
Int. Filing Date: 07 March 2006	:	37 CFR 1.47(a)
Priority Date: 07 March 2005	:	
Attorney Docket No.: 16087NP	:	
For: SOL GEL FUNCTIONALIZED SILICATE CATALYST AND SCAVENGER	:	

This decision is issued in response to applicants' "Submission of an Executed Declaration" filed 23 June 2008 which is being treated as a Renewed Petition under 37 CFR 1.47(a). In a decision dated 12 March 2008, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Alexandre Blanc, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 23 June 2008 with the present petition was executed by the named inventor, the previous non-signing inventor, Alexandre Blanc. The declaration filed 23 June 2008 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED as MOOT**.

The application has an international filing date of 07 March 2006 under 35 U.S.C. 363 and a date of 23 June 2008 under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith
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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.
11/885,686	09/05/2007	William Peter Grant	BOOT-US-759	8249

7590 06/24/2010

Christopher John Rudy
209 Huron Ave. #8
Port Huron, MI 48060

EXAMINER	
JACKSON, BRANDON LEE	
ART UNIT	PAPER NUMBER
3772	
MAIL DATE	DELIVERY MODE
06/24/2010	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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Christopher John Rudy
209 Huron Ave. #8
Port Huron MI 48060

In re Application of:
GRANT, WILLIAM PETER
Serial No.: 11/885,686
Filed: Sep. 5, 2007
Docket: BOOT-US-759
Title: ADJUSTABLE RESTRAINT FOR THE LOWER LEG AND/OR FOOT

DECISION ON PETITION

This is a decision on the petition filed on June 21, 2010 seeking withdrawal of the finality of the Office action mailed June 10, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record shows that at least claim 1 was not amended in the amendment filed on February 2, 2010. Therefore, the rejection of at least claim 1 was not necessitated by the amendment filed on February 2, 2010. As such, the finality of the Office action issued on June 10, 2010 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on June10, 2010 will be designated as non-final Office action. The period to respond to the Office action of June 10, 2010 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action will be treated as a 37 CFR § 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed June 10, 2010 is hereby withdrawn. The requested relief is granted.

Any questions regarding this decision should be directed to Special Program Examiner, Henry Yuen, at 571-272-4856.

PETITION GRANTED.

Angela D. Sykes, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/885,710	06/09/2008	Paul Merchak	58653/03900	8388

96610 7590 07/14/2010

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036-2714

EXAMINER
EVANS, FANNIE L

ART UNIT	PAPER NUMBER
2877	

MAIL DATE	DELIVERY MODE
07/14/2010	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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Alexandria, VA 22313-1450
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Paper No. 20100713

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York NY 10036-2714

In re Application of:	:	
MERCHAK, Paul.	:	PETITION TO ACCEPT COLOR
Serial No.: 11/885,710	:	DRAWINGS
Filed: September 4, 2007	:	UNDER 37 CFR § 1.84(a)(2)
Attorney Docket No.: 58653/03900	:	

This is a decision on the petition filed June 25, 2010 to accept color drawings under 37 CFR § 1.84(a)(2).

The petition is granted and the drawings have been accepted.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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25 SEP 2007

Eileen L. Hughett
The Procter & Gamble Company
Winton Hill Business Center
(West Bldg) W4S Box 413
6250 Center Hill Ave.
Cincinnati OH 45224-1708

In re Application of	:	
BAUMEISTER, et al.	:	
U.S. Application No.: 11/885,717	:	DECISION ON PETITION
PCT No.: PCT/EP05/12545	:	
Int. Filing Date: 24 November 2005	:	UNDER 37 CFR 1.137(b)
Priority Date: 24 November 2004	:	
Attorney Docket No.: W-167Q/SK	:	
For: HAIR TREATMENT COMPOSITION	:	

The petition to revive under 37 CFR 1.137(b) filed 30 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 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 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 a compliant, 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

UNITED STATES PATENT and TRADEMARK OFFICE

12 MAY 2008

COMMISSIONER FOR PATENTS
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BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

In re Application of	:	DECISION ON
Barret et al	:	
Application No.: 11/885,731	:	
PCT No.: PCT/EP2006/060478	:	
Int. Filing Date: 06 March 2006	:	PETITION UNDER
Priority Date: 04 March 2005	:	
Attorney's Docket No.: 15675P680	:	
For: METHOD FOR MAKING... SAID METHOD	:	37 CFR 1.10 (c)

This decision is in response to the "PETITION PURSUANT TO RULE 1.10(c)," filed on 16 April 2008, requesting that the receipt of the national stage papers be changed from September 5, 2007 to September 4, 2007 for the above identified national stage application. No fee is required for this petition.

BACKGROUND

On 04 September 2007, petitioner purportedly 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).

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), identifying the application by the International application number and international filing date, and the translation of the application into English." The Notification noted that the items must be submitted within two months from date of mailing or by 32 months from the priority date of the application, in order to avoid abandonment of the national stage application.

On 16 April 2008, the present petition was filed to this Office requesting that the national stage application papers were filed on September 5, 2007, which would be pursuant to the "Express Mail" provisions under 37 CFR 1.10(c). The petition includes, *inter alia*, a copy of the customer receipt of "Express Mail" Label No. EV889758771US.

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. EV889758771US was placed, *inter alia*, on the cover letter of the specification. CFR 1.10(c)(2). Although the copy of the customer receipt of "Express Mail" Label No. EV889758771US filed with the present petition does not clearly identify the day of deposit in the "Date In" box, applicant has submitted a copy of the USPS of the "Track & Confirm" sheet, which shows that the above application was submitted on September 04, 2007 at a Los Angeles USPS office. 37 CFR 1.10(c)(3).

Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

The National Stage papers were received by the USPTO on 04 September 2007.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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

Mail Date: 05/04/2010

Applicant	: Andreas Kuhn	: DECISION ON REQUEST FOR
Patent Number	: 7613592	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/885,817	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

MAILED

JUN 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Miguel De Vega Rodrigo :
Application No. 11/885,818 :
Filed: September 6, 2007 :
Attorney Docket No. 2005P04136 (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 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 1, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

17 SEP 2008

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HOWREY LLP-EU
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH, VA 22042

In re Application of VAN DER HAAS et al	:	
U.S. Application No.: 11/885,848	:	
PCT Application No.: PCT/NL2006/000119	:	
Int. Filing Date: 08 March 2006	:	
Priority Date Claimed: 08 March 2005	:	DECISION
Attorney Docket No.: 01788.0002.PCUS00	:	
For: A METHOD OF PREPARING A PORPHYRIN DERIVATIVE, A PORPHYRIN DERIVATIVE, USE OF SAID PORPHYRIN	:	

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 26 August 2008.

BACKGROUND

On 07 September 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) and a Transmittal Letter (Form PTO-1390).

On 02 July 2008, this Office mailed a communication which identified a discrepancy with respect to the international application number.

On 26 August 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of the application papers filed 07 September 2007 reveals that the incorrect international application number was listed on the Transmittal Letter (Form PTO-1390). The present petition states that the correct international application number should be PCT/NL2006/000119. The content of international application number PCT/NL2006/000119 is consistent with the specification, claims, abstract, and drawings filed with the national stage papers on 07 September 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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THE LUTHER LAW FIRM, PLC
10575 N 114TH STREET
SUITE 103
SCOTTSDALE AZ 85259

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application of :
Grott :
Application No. 11/885,852 : DECISION
Filed: 6 September, 2007 :
Attorney Docket No. ECYC-05ORD :

This is a decision on the petition filed on 22 January, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply to the Notice of Allowance/Allowability and Fees Due mailed on 20 September, with reply due under a non-extendable deadline on or before 30 December, 2009.

The application went abandoned by operation of law after midnight 30 December, 2009.

The Office mailed the Notice of Abandonment on 20 January, 2010.

On 22 January, 2010, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made a statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

As to Allegations of Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO, IL 60606

Mail Date: 04/26/2010

Applicant	: Larry M. Moeller	: DECISION ON REQUEST FOR
Patent Number	: 7591236	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/885,894	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/07/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **82** 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.

05 JAN 2009

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In re Application of	:	DECISION ON
TANOUE	:	
Application No.: 11/885,899	:	PETITION UNDER
PCT No.: PCT/JP2005/023659	:	
Int. Filing Date: 22 December 2005	:	37 CFR § 1.47(b)
Priority Date: 08 March 2005	:	
Attorney Docket No.: 21645	:	
For: ENDOSCOPE, OPTICAL MEMBER, AND METHOD OF MANUFACTURING ENDOSCOPE	:	

This is a decision on applicant's petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 10 September 2008. The petition is **DISMISSED** without prejudice.

BACKGROUND

On 22 December 2005, applicant filed international application PCT/JP2005/023659, which designated the US and claimed a priority date of 08 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 September 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 September 2007 (08 September 2007 being a Saturday).

On 07 September 2007, applicant 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 19 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 September 2008, applicant submitted the instant petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a five-month extension of time, a

statement of facts by Tetsumaru Kubota, a copy of an "Industrial Property Right Application and Procedure Request and Assignment" dated 31 January 2005 and an English translation thereof, and a copy of a delivery proof mail statement dated 25 April 2008 and an English translation thereof.

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.

Items (1), (3), and (6) have been met.

Item (2) has not been met. It is not clear whether it is being alleged that Tetsuya Tanoue refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." Three packages were sent to Mr. Tanoue's last known address: an August 2007 package, a January 2008 package, and an April 2008 package. The August 2007 package was sent by ordinary mail and no response was received. The January 2008 package was sent by delivery proof mail and was allegedly received but the return receipt has been lost. However, proof of delivery is required to establish receipt. The April 2008 package was sent by delivery proof mail but was returned to sender (delivery proof mail statement dated 25 April 2008). (Although the statement of Tetsumaru Kubota indicated that a "return receipt evidencing the delivery of the communication . . . Exhibit B", it does not appear that the April 2008 package was delivered. The 25 April 2008 delivery proof mail statement indicates that it was not. Although the 16 April 2008 delivery proof mail statement (i.e., Exhibit B) identifies a "reception date" of 16 April 2008, "reception" appears to refer to the date received by the post office. Note that the tracking number on the 16 April 2008 statement is the same as the tracking number on the 25 April 2008 statement. It stands to reason that the same package could not be both delivered and non-delivered.) If the April 2008 letter was neither picked up or delivered, it may be because Mr. Tanoue no longer resides at this address.

If it is being alleged that Mr. Tanoue refuses to sign, it must be established that he lives at this address.

If it is being alleged that Mr. Tanoue cannot be reached or found, a bona fide attempt to find his address must be made and copies of documentary evidence such as *internet searches*, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding

that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP § 409.03, item I. It does not appear that any internet searches were conducted to find Mr. Tanoue's address.

Item (4) has not been satisfied. The declaration of the inventor filed 10 September 2008 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

Item (5) has not been met. The "Industrial Property Right Application and Procedure Request and Assignment" dated 31 January 2005 has been considered. However, it is not clear that this document refers to the invention of the instant application. Attention is directed to MPEP § 409.03 which states in part:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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.

/Daniel Stemmer/

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2 7 APR 2009

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In re Application of	:	DECISION ON
TANOUE	:	
Application No.: 11/885,899	:	PETITION UNDER
PCT No.: PCT/JP2005/023659	:	
Int. Filing Date: 22 December 2005	:	37 CFR § 1.47(b)
Priority Date: 08 March 2005	:	
Attorney Docket No.: 21645	:	
For: ENDOSCOPE, OPTICAL MEMBER, AND METHOD OF MANUFACTURING ENDOSCOPE	:	

This is a decision on applicant's petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 05 March 2009. The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 22 December 2005, applicant filed international application PCT/JP2005/023659, which designated the US and claimed a priority date of 08 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 September 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 September 2007 (08 September 2007 being a Saturday).

On 07 September 2007, applicant 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 19 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 September 2008, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a five-month extension of time, a

statement of facts by Tetsumaru Kubota, a copy of an "Industrial Property Right Application and Procedure Request and Assignment" dated 31 January 2005 and an English translation thereof, and a copy of a delivery proof mail statement dated 25 April 2008 and an English translation thereof.

On 05 January 2009, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b). Specifically, it was noted that factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort had not been provided, that proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application had not been provided, and that the declaration of the inventor filed 10 September 2008 was not in compliance with 37 CFR 1.69(b) since applicant had not used one of the pre-approved foreign language forms nor had applicant furnished the requisite statement attesting to the accuracy of the translation.

On 05 March 2009, applicant filed the instant submission which includes a declaration of the inventor signed by previously non-signing inventor Tetsuya Tanoue.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by the inventor, the petition for status under 37 CFR 1.47(b) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration of the inventor filed 05 March 2009 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicant is required to file either a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or the requisite statement under 37 CFR 1.69(b) that the translation is accurate. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office

of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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22 MAY 2009

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In re Application of	:	SUPPLEMENTAL
TANOUE	:	
Application No.: 11/885,899	:	DECISION
PCT No.: PCT/JP2005/023659	:	
Int. Filing Date: 22 December 2005	:	
Priority Date: 08 March 2005	:	
Attorney Docket No.: 21645	:	
For: ENDOSCOPE, OPTICAL MEMBER, AND METHOD OF MANUFACTURING ENDOSCOPE	:	

This decision is supplemental to the decision mailed 27 April 2009.

On 27 April 2009, a decision was mailed dismissing as moot applicant's petition under 37 CFR 1.47(b). The decision also indicated that applicant was required to file either a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or the requisite statement under 37 CFR 1.69(b) that the translation is accurate. The decision indicated that extensions of time could be obtained under 37 CFR 1.136(a) and that failure to timely file a proper reply would result in abandonment of the application. However, the decision inadvertently failed to indicate the period for response.

Applicants are required to file a proper reply to the decision mailed 27 April 2009 within **ONE (1) MONTH** from the date of mailing of this supplemental decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia

22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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KENYON & KENYON LLP
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NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Tero Jaervelaeinen	: DECISION ON REQUEST FOR
Patent Number	: 7667420	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/885,921	: 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 **117** 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.

29 SEP 2008

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MERCK AND CO., INC
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In re Application of	:	
Paone et al.	:	
App. No.: 11/885,926	:	DECISION
Int. App.: PCT/US2006/008859	:	
Int. Filing Date: 14 March 2006	:	ON
Priority Date: 14 March 2005	:	
Attorney's Docket No.: 21751P	:	PETITION
For: CGRP Receptor Antagonists	:	

This is in response to the petition under 37 CFR 1.10(c) filed on 15 September 2008, which is being treated under 37 CFR 1.10(d).

BACKGROUND

This international application was filed on 14 March 2006 and claimed an earliest priority date of 14 March 2005. The United States was designated. The thirty month period for payment of the basic national fee in the United States expired as of midnight on 14 September 2007. Applicants filed *inter alia* the basic national fee on 06 September 2007.

On 08 July 2008, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, showing a date under 35 U.S.C. 371(c)(1), (2) and (4) of "09/07/2007."

DISCUSSION

Petitioner requests that the USPTO "accord a national phase filing date under 35 U.S.C. § 371 of September 6, 2007, for the above-identified application, in accordance with the Express Mail Label No. EV 660610323 US." Petitioner requests relief under 37 CFR 1.10(c), but the petition is being treated under 37 CFR 1.10(d) in view of the ambiguity in the "Date Accepted" recorded on the Express Mail mailing label.

The instant petition complies with 37 CFR 1.10(d)(1).

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, EV660610323US, was recorded on Page 1A of the Transmittal Letter which accompanied and itemized the filing of the correspondence and fees in question.

With regard to 37 CFR 1.10(d)(3), counsel has provided a copy of the Customer Copy of the Express Mail mailing label, number EV660610323US, which shows an ambiguous "Date Accepted;" the notation in the "Day" field could reasonably be interpreted as either 6 or 7, or both 6 and 7 overlapping. No other USPS notations specifically recording the date of deposit (e.g., plug stamps) appear on the Customer Copy. However, inspection of the restored version of the USPS Track & Confirm web page corresponding to the Express Mail parcel in question reveals a USPS notation of "Acceptance, September 06, 2007, 5:48 pm, RAHWAY, NJ 07065." From this USPS evidence, it would be appropriate to conclude that the Express Mail parcel in

question was placed into the custody of the USPS on 06 September 2007. Therefore, 37 CFR 1.10(d)(3) has been satisfied. Accordingly, the Notice of Acceptance mailed on 08 July 2008 is hereby **VACATED**. The correspondence and fees received on 07 September 2007 are regarded as having been filed on 06 September 2007.

The $200.00 petition fee paid on 15 September 2008 was not required, and it is being refunded to counsel's Deposit Account no. 13-2755, per the Transmittal Letter filed on 06 September 2007.

DECISION

The petition is **GRANTED** under 37 CFR 1.10(d), for the reasons described *supra*.

This application is being forwarded to the Office of Patent Application Processing for further processing consistent with this Decision, including the issuance of a corrected filing receipt. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **06 September 2007**.

/George Dombroske/
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07 APR 2009

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In re Application of KALLOO et al	:	
U.S. Application No.: 11/885,938	:	
PCT Application No.: PCT/US2006/009138	:	
Int. Filing Date: 13 March 2006	:	
Priority Date Claimed: 11 March 2005	:	DECISION
Attorney Docket No.: 64968(71699)	:	
For: DEVICES AND METHODS FOR TREATMENT OF GASTROINTESTINAL DISORDERS	:	

This is in response to applicant's petition under 37 CFR 1.47(a) filed 27 February 2009.

BACKGROUND

On 13 March 2006, applicant filed international application PCT/US2006/009138, which claimed priority of an earlier United States application filed 11 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2007.

On 07 September 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 31 July 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 February 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning inventor.

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 joint inventor Sergey Kantsevoy refuses to sign the application papers. However, petitioner has not established that a bona fide attempt was made to present a copy of the application papers to Dr. Kantsevoy for signature. Although the statement of Lisa Swiszcz Hazzard indicates that the application papers were forwarded to Dr. Kantsevoy, a copy of the cover letter requesting Dr. Kantsevoy's signature has not been furnished. Furthermore, there is no evidence that Dr. Kantsevoy actually received such application papers. It would not be reasonable to conclude that Dr. Kantsevoy refuses to sign papers that he did not actually receive. Similarly, copies of the purported electronic mail messages sent to Dr. Kantsevoy have not been provided. Until it is established that Dr. Kantsevoy actually received the communications directed to him, his purported failure to respond to such communications will not be deemed a refusal to cooperate.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition fails to state the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the 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 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(a)". 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.

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21 JUL 2009

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In re Application of KALLOO et al	:	
U.S. Application No.: 11/885,938	:	
PCT Application No.: PCT/US2006/009138	:	
Int. Filing Date: 13 March 2006	:	
Priority Date Claimed: 11 March 2005	:	DECISION
Attorney Docket No.: 64968(71699)	:	
For: DEVICES AND METHODS FOR TREATMENT OF GASTROINTESTINAL DISORDERS	:	

This is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 27 May 2009.

BACKGROUND

On 13 March 2006, applicant filed international application PCT/US2006/009138, which claimed priority of an earlier United States application filed 11 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2007.

On 07 September 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 31 July 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 February 2009, applicant filed a petition under 37 CFR 1.47(a).

On 07 April 2009, this Office mailed a decision dismissing the 27 February 2009 petition.

On 27 May 2009, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (1) and (3) above.

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 joint inventor Sergey Kantsevoy refuses to sign the application papers. The petition sufficiently establishes that a bona fide attempt was made to present a copy of the application papers to Dr. Kantsevoy for signature (see copies of electronic mail messages dated 15 September 2008, 19 November 2008, 30 January 2009, 18 February 2009, and 25 February 2009). Furthermore, the petition adequately demonstrates that Dr. Kantsevoy refuses to sign. Specifically, Dr. Kantsevoy's failure to return an executed declaration in response to repeated requests constitutes a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Dr. Kantsevoy refuses to join in the application.

With regard to item (4) above, the renewed petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 13 March 2006 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 February 2009.

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

Telephone: 571-272-3303
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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21 JUL 2009

Sergey Kantsevoy
4 Melisa Court
Owings Mills, MD 21117

In re Application of KALLOO et al
U.S. Application No.: 11/885,938
PCT Application No.: PCT/US2006/009138
Int. Filing Date: 13 March 2006
Priority Date Claimed: 11 March 2005
For: DEVICES AND METHODS FOR TREATMENT OF GASTROINTESTINAL DISORDERS

Dear Sergey Kantsevoy:

You are named as a joint 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 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

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PCT Legal Office
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205
Attorney Docket No.: 64968(71699)

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 08/04/2010

Applicant	: Kenji Uezono	: DECISION ON REQUEST FOR
Patent Number	: 7637101	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/885,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **289** 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.

16 SEP 2009

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00513
WENDEROTH, LIND & PONACK, L.L.P.
2033 K Street, N.W.
Suite 800
Washington, DC 20006-1021

In re Application of :
TAKAHASHI *et al* :
U.S. Application No.: 11/885,965 :
PCT No.: PCT/JP2006/305301 :
Int. Filing Date: 10 March 2006 : **DECISION**
Priority Date: 10 March 2005 :
Attorney Docket No.: 2007_1471A :
For: TETRAHYDROISOQUINOLINE :
COMPOUND AND MEDICINAL USE :
THEREOF :

This is a decision on the papers filed 03 November 2008.

BACKGROUND

On 09 November 2007, applicants filed an executed declaration and $130.00 surcharge fee.

On 02 September 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 an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required as the current oath was deemed defective. The first name of the third inventor was misspelled. Applicants were given two months to comply with extensions of time available.

On 03 November 2008, applicants filed the subject response along with another declaration executed by the four inventors.

DISCUSSION

In the papers filed 03 November 2008, applicants claim that the third named inventor's name was misspelled in the international application, PCT/JP2006/305301. Petitioners state that his first name properly translated is Kazuyoshi, not Kazuhiro as spelled on the international publication (WO 2006/095922).

The declaration filed 03 November 2008 in the above-captioned application listed the third inventor's name as Kazuyoshi KUNISHIRO.

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 and is sufficient to explain the name differences between the declaration and the international publication.

CONCLUSION

For the reasons discussed above, the declaration filed 03 November 2008 is deemed to be 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 10 March 2006, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 November 2008.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

24 SEP 2009

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00513
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

In re Application of :
TAKAHASHI *et al* :
U.S. Application No.: 11/885,965 :
PCT No.: PCT/JP2006/305301 :
Int. Filing Date: 10 March 2006 : **DECISION**
Priority Date: 10 March 2005 :
Attorney Docket No.: 2007_1471A :
For: TETRAHYDROISOQUINOLINE :
COMPOUND AND MEDICINAL USE :
THEREOF :

This is a decision on the papers filed 03 November 2008[1].

BACKGROUND

On 09 November 2007, applicants filed an executed declaration and $130.00 surcharge fee.

On 02 September 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 an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required as the current oath was deemed defective. The first name of the third inventor was misspelled. Applicants were given two months to comply with extensions of time available.

On 03 November 2008, applicants filed the subject response along with another declaration executed by the four inventors.

DISCUSSION

In the papers filed 03 November 2008, applicants claim that the third named inventor's name was misspelled in the international application, PCT/JP2006/305301. Petitioners state that his first name properly translated is Kazuyoshi, not Kazuhiro as spelled on the international publication (WO 2006/095922).

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[1] This decision was originally mailed on 16 September 2009 but was returned by the USPS as undeliverable. An old address for counsel was used in the prior decision.

The declaration filed 03 November 2008 in the above-captioned application listed the third inventor's name as Kazuyoshi KUNISHIRO.

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 and is sufficient to explain the name differences between the declaration and the international publication.

CONCLUSION

For the reasons discussed above, the declaration filed 03 November 2008 is deemed to be 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 10 March 2006, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 November 2008.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Hideyuki Ohara	: DECISION ON REQUEST FOR
Patent Number	: 7649491	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/885,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/10/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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11 OCT 2007

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of YING et al.
Application No.: 11/885,983
PCT No.: PCT/SG05/00073
Int. Filing: 08 March 2005
Priority Date: None
Attorney Docket No.: 12253-003-999
For: IMMOBILISED ENZYMES

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 September 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required fees prior to the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" has been interpreted 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" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

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), is required.

Cynthia M. Kratz
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27 JAN 2009

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of SONG et al	:	
U.S. Application No.: 11/885,988	:	
PCT Application No.: PCT/EP2006/060513	:	
Int. Filing Date: 07 March 2006	:	DECISION
Priority Date Claimed: 08 March 2005	:	
Attorney Docket No.: 13987-00067-US	:	
For: EXPRESSION ENHANCING INTRON SEQUENCES	:	

This is in response to applicant's "Request for Addition of Inventors Under 37 CFR 1.48(a)" filed 03 April 2008, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 07 March 2006, applicant filed international application PCT/EP2006/060513, which claimed priority of an earlier United States application filed 08 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 08 September 2007.

On 07 September 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 03 April 2008, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Jeffrey Brown and Hongmei Jia should be added as inventors.

37 CFR 1.497(d) states,

> 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 92bis 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 § 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); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, written consent of the assignee has been provided.

With regard to item (4) above, a new declaration under 37 CFR 1.497(f) is not required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 07 March 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 03 April 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
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Akio Matsunaga	: DECISION ON REQUEST FOR
Patent Number	: 7620490	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/885,998	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2008	: 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.

24 OCT 2008

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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In re Application of DEFREGGER et al.	:
Application No.: 11/886,013	:
PCT No.: PCT/EP06/02089	: DECISION ON
Int. Filing: 07 March 2006	:
Priority Date: 10 March 2005	: PETITION
Attorney Docket No.: 5367-326PUS	:
For: METHOD FOR DESIGNING AN INTEGRATED CIRCUIT	:UNDER 37 CFR 1.47(a)
	:

This is a decision on applicant's Petition Under 37 CFR 1.47(b), treated as a petition under 37 CFR 1.47(a)[1] filed in the United States Patent and Trademark Office on 28 July 2008. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 24 April 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 28 July 2008, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the joint inventor 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, Stefan Defregger, alleging that Mr. Defregger refuses to sign the application.

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 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).

Applicant has satisfied Item (1) with the requisite $200 petition fee, charged to applicant's deposit account per his authorization. The last known address of inventor Defregger was

[1] Applicant filed the petition under 37 CFR 1.47(b). However, 37 CFR 1.47(b) is directed to applications where all of the inventors refuse to execute an application for patent. In the instant case, one of the joint inventors refused to join in the application and the application is made by the other joint inventor on behalf of himself and the nonsigning inventor. Thus, a petition under 37 CFR 1.47(a) is required.

provided satisfying Item (3).

With respect to Item (2), Petitioner provided the statement of Martin Brand, German patent attorney. Mr. Brand states that on 14 January 2008, he signed and mailed a cover letter to Mr. Defregger, "enclosing the specification, claims, drawings, abstract, combined declaration and power of attorney and an assignment for the present application" to the nonsigning inventor. Mr. Brand asked that the documents be returned by 28 January 2008. A copy of the cover letter and an English translation of the letter were attached to his statement. Thereafter, on 07 April 2008, Mr. Brand states that he spoke to Mr. Defregger, who stated that he would not sign the declaration. Thus, Mr. Defregger's refuses to cooperate in the application. Item (2) is satisfied. (See section 409.03(d) of the MPEP)

With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors. The declaration was also signed by the attorney for the assignee in the signature block designated for the nonsigning inventor.

As set forth in MPEP §409.03(a): All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP 602, 605.01, and 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. 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 available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. (Emphasis added.)

The declaration submitted on 28 July 2008 is executed by the joint inventor and by an attorney for the assignee. This declaration is unacceptable as executed as it is improperly executed. A newly executed declaration is required, which provides the residence, address and citizenship of the inventors, is executed by the joint inventor and meets the requirements of 37 CFR 1.497(a) and (b).

Petitioner has not satisfied the requirements of 37 CFR 1.47(a). 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.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

UNITED STATES PATENT AND TRADEMARK OFFICE

0 4 MAR 2009

Commissioner for Patents
United States Patent and Trademark Office
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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In re Application of DEFREGGER et al.	:
Application No.: 11/886,013	:
PCT No.: PCT/EP06/02089	: DECISION ON
Int. Filing: 07 March 2006	:
Priority Date: 10 March 2005	: RENEWED PETITION
Attorney Docket No.: 5367-326PUS	:
For: METHOD FOR DESIGNING AN INTEGRATED CIRCUIT	:UNDER 37 CFR 1.47(a)
	:

This is a decision on applicant's Renewed Petition Under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office on 29 December 2008.

BACKGROUND

On 24 April 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 28 July 2008, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the joint inventor 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, Stefan Defregger, alleging that Mr. Defregger refuses to sign the application.

On 24 October 2008, a decision on petition was mailed to applicant indicating that the declaration was unacceptable and that a new declaration was required.

On 29 December 2008, a renewed petition under 37 CFR 1.47(a) was filed along with a newly executed declaration.

DISCUSSION

As previously stated, 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 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).

Applicant previously satisfied Items (1), (2) and (3).

With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors with the signature block of the nonsigning inventor(s) left

blank. The declaration may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s).

The declaration submitted on 29 December 2008 is executed by the joint inventor, is acceptable as executed and meets the requirements of 37 CFR 1.497(a) and (b).

Petitioner has now satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate 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 **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 29 December 2008. The application has an international filing date of 07 March 2006 under 35 U.S.C. 363, and a date of 29 December 2008 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

UNITED STATES PATENT AND TRADEMARK OFFICE

0 4 MAR 2009

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

STEFAN DEFREGGER
AM BACH 25
8501 LIEBOCH
AUSTRIA

In re Application of DEFREGGER et al.	:
Application No.: 11/886,013	:
PCT No.: PCT/EP06/02089	: DECISION ON
Int. Filing: 07 March 2006	:
Priority Date: 10 March 2005	: PETITION
Attorney Docket No.: 5367-326PUS	:
For: METHOD FOR DESIGNING AN INTEGRATED CIRCUIT	:UNDER 37 CFR 1.47(a)
	:

Dear Mr. Defregger:

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.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286

COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

16 NOV 2007

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FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

In re Application of	:	
MCDERMOTT, Peter	:	
Application No.: 11/886,080	:	DECISION
PCT No.: PCT/GB2005/04826	:	
Int. Filing Date: 14 December 2005	:	ON PETITION UNDER
Priority Date: 14 December 2004	:	
Docket No.: GCMZ 2 00004	:	37 CFR 1.137(b)
For: MODIFIED PET FLAP ARRANGEMENTS	:	

Applicant's Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 11 September 2007 is **GRANTED**.

Applicant 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, 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.

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 also not yet been submitted.

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

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Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115

MAILED

JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Peter McDermott :
Application No. 11/886,080 : DECISION ON PETITION
Filed: March 11, 2008 : TO WITHDRAW
Attorney Docket No. GCMZ 2 00004 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2009.

The request is **APPROVED**.

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

The request was signed by Jay F. Moldovanyi on behalf of attorney/agents associated with customer number 27885. All attorneys/agents associated with customer number 27885 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Peter McDermott
Keeper Cottage, Christal Grange
Heydon, Royston
Hertfordshire SG8 7NT
Great Britain

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/886,080	03/11/2008	Peter McDermott	GCMZ 2 00004

CONFIRMATION NO. 2889

POWER OF ATTORNEY NOTICE

27885
Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115

OC000000036775003

Date Mailed: 07/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2009.

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

/kainabinet/

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

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

Mail Date: 05/06/2010

Applicant	: Soren Nielsen	: DECISION ON REQUEST FOR
Patent Number	: 7650797	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/886,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2008	: 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/886,135	09/11/2007	Jean-Xavier Morin	VA30571	3222

226 7590 02/16/2010

ALSTOM POWER INC.
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 500
WINDSOR, CT 06095

EXAMINER	
MERKLING, MATTHEW J	
ART UNIT	**PAPER NUMBER**
1795	
MAIL DATE	**DELIVERY MODE**
02/16/2010	PAPER

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

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

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ALSTOM POWER INC.
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 500
WINDSOR CT 06095

FEB 16 2010

In re Application of :
Morin et al. : DECISION ON PETITION
Application No. 11/886,135 : TO MAKE SPECIAL UNDER
Filed: 9/11/2007 : THE GREEN TECHNOLOGY
Attorney Docket No. **VA30571** : PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed 1/8/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within ONE (1) MONTH OR THIRTY (30) DAYS from the mail date of this decision, whichever is longer. No extension of this time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be

accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The petition lacks item(s) 1.

In regard to item 1, petitioner should note that this application has been classified in an area (USPC 48/061.000) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

Any reconsideration of this decision should be submitted through the USPTO electronic filing system, EFS-Web, and selecting the document description of "Petition for Green Tech Pilot" on the EFS-Web screen.

Telephone inquiries concerning this decision should be directed to Tom Dunn at 571-272-1171.

The application is being forwarded to the Technology Center Art Unit 1795 for action in its regular turn.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Osamu YONEJI :
Application No. 11/886,146 : DECISION GRANTING PETITION
Filed: September 12, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **133891** :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 21, 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 2862 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Kazushige Hotta	: DECISION ON REQUEST FOR
Patent Number	: 7619288	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/886,147	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

06 DEC 2007

FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

In re Application of: SAPPOK, Manfred, et al.
U.S. Application No.: 11/886,164
Int'l Application No: PCT/EP2006/001919
Int'l Filing Date: 02 March 2006
Priority Date: 02 March 2005
Atty Docket No.: PSEE 2 00036
For: METHOD FOR DEPOLYMERISING RESIDUES CONTAINING HYDRO-CARBONS AND DEVICE FOR CARRYING OUT SAID METHOD

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 06 September 2007 in the above-captioned application is hereby **GRANTED** as follows:

The present application became abandoned with respect to the United States at midnight on 02 September 2007 due to applicants' failure to submit the basic national fee prior to the expiration of thirty months from the priority date.

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.

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 a fully executed oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET, SUITE 4000
NEW YORK, NY 10168

MAILED

JUL 10 2009

OFFICE OF PETITIONS

In re Application of :
Etsurou KOMORI, et al. :
Application No. 11/886,169 : DECISION GRANTING PETITION
Filed: September 10, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **F-9475** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 9, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

06 JUN 2008

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BIRCH, STEWART, KOLASCH & BIRCH LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of:
SEMBA, Taro, et al.
U.S. Application No.: 11/886,214
PCT No.: PCT/JP2006/304208
International Filing Date: 28 February 2008
Atty Docket No.: E0002.0005
For: NOVEL USE OF SULFONAMIDE COMPOUND IN COMBINATION WITH ANGIOGENESIS INHIBITOR

DECISION ON PETITION
(37 CFR 1.10(e))

This decision is issued in response to the "Petition Under 37 CFR 1.10(g)" filed 12 September 2007, treated herein under 37 CFR 1.10(e). No petition fee is required.

BACKGROUND

On 28 February 2006, applicants filed international application PCT/JP2006/304208. The application claimed a priority date of 28 February 2005, and it designated the United States. On 31 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 payment of the basic national fee was thirty months from the priority date, i.e., 28 August 2007.

On 12 September 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, a translation of the international application into English, an executed declaration, and the "Petition Under 37 CFR 1.10(g)" considered herein. The petition asserts that the enclosed national stage application materials were originally deposited as "Express Mail" with the USPS on 27 August 2007 and should therefore be treated as having been filed on 27 August 2007 (i.e., prior to the expiration of the thirty-month deadline)

On 13 May 2008, a "Revocation Of Power Of Attorney And New Power Of Attorney" was filed appointing new counsel and changing the correspondence address herein to that set forth above.

DISCUSSION

The present petition states that the application materials were properly deposited with the USPS as "Express Mail" on 27 August 2007 but were never delivered to the USPTO. Rather, the envelope was returned to counsel on by the USPS on 11 September 2007, without an explanation from the USPS as to why the envelope had not been properly delivered. Applicants

then re-submitted the national stage application materials, accompanied by the present petition, on 12 September 2007.

Where, as here, correspondence is properly deposited as "Express Mail" but not received by the USPTO, the applicable regulation is 37 CFR 1.10(e).[1] 37 CFR 1.10(e) states the following:

> (e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Here, the petition was filed promptly after the non-delivered "Express Mail" envelope was returned to counsel, satisfying item (1).

Regarding item (2), the national stage application materials included a "Certificate Of Express Mailing Under 37 CFR 1.10" that itemized the enclosed materials, identified the date of

---

[1] The present petition was filed under 37 CFR 1.10(g), which applies where the USPS returns an "Express Mail" package due to "an interruption or emergency in 'Express Mail" service." However, there is no evidence of such an interruption or emergency in "Express Mail" presented here. Accordingly, 37 CFR 1.10(g) does not apply to the present circumstances.

deposit as 27 August 2007, and set forth the "Express Mail" label number, EV873279319US. Item (2) is therefore satisfied.

Regarding item (3), the present petition indicates that the accompanying materials are the original correspondence that was deposited with the USPS in "Express Mail" envelope EV873279319US on 27 August 2007 (and subsequently returned to counsel). In addition, the petition includes a copy of the "Express Mail" mailing label for "Express Mail" envelope EV873279319US, and this mailing label bears a "date-in" and USPS stamp dated 27 August 2007. These materials satisfy item (3).

Finally, with respect to item (4), the petition states that the materials were properly deposited with the USPS on 27 August 2007 and subsequently returned to counsel on 11 September 2007, without explanation. The petition is supported by the "Express Mail" mailing label, on which the USPS entered the "date in" of 27 August 2007, as well as a copy of a sales receipt confirming payment of the postage for this "Express Mail" envelope, and USPS tracking data that confirms the "Express Mail" envelope was accepted by the USPS on 27 August 2007 and returned to the sender on 10 September 2007. These materials provide an acceptable showing that the national stage application papers accompanying the present petition were originally deposited with the USPS as "Express Mail" on 27 August 2007. Item (4) is therefore satisfied.

Based on the above, applicants have satisfied all the requirements of a grantable petition under 37 CFR 1.10(e). Accordingly, the national stage application materials filed with the present petition, including the basic national fee payment, English translation, and declaration, are treated as having been filed on 27 August 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.10(e) to confirm the 27 August 2007 filing date of the attached national stage application materials is **GRANTED**. The materials initiating the present international application, including the basic national fee, English translation of the international application, and executed declaration, will be treated as having been filed on 27 August 2007, prior to the expiration of thirty months from the priority date.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 August 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

09 MAR 2009

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Hans Koenig
National Research Council of Canada
Intellectual Property Services Office
EG-10, Bodg. M-58, Montreal Road
Ottawa, Ontario K1A 0R6
Canada

In re Application of :
SIMARD et al :
Application No.: 11/886,300 :
PCT No.: PCT/CA2006/000356 :
Int. Filing Date: 14 March 2006 :
Priority Date: 14 March 2005 :
For: METHOD AND APPARATUS FOR :
THE CONTINUOUS PRODUCTION AND :
FUNCTIONALIZATION OF SINGLE- :
WALLED CARBON NANOTUBE USING :
A HIGH FREQUENCY PLASMA TORCH : PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 137(b)" filed in the United States Patent and Trademark Office (USPTO) on 1/23/2009.

BACKGROUND

The International application PCT/CA2006/000356 became abandoned with respect to the United States of America at midnight on 14 September 2007 based on applicants' failure to pay the U.S. basic national fee prior to the expiration of thirty months from the priority date.

On 23 January 2009, applicants filed the present petition under 37 C.F.R 1.137(b) to revive the application. The national stage fee accompanied the petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived the grounds of unintentional abandonment must be accompanied by (1) the required reply, (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 pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicants have provided the required reply.

Regarding item (2), the $1620 petition fee has been charged to the deposit account 14-0429 as authorized by applicants.

Regarding item (3), the petition includes 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" satisfies the requirement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons detailed above, applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing (DO/EO/US) for further processing.

Celine Qian
Examiner
Office of PCT Legal Administration
Tel: (571) 272-6094
Fax: (571) 273-0459

Leonard Smith
Supervisor PCT Legal Examiner
Office of PCT Legal Administration

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15 AUG 2008

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of :
DIMITROV, et al. :
U.S. Application No.: 11/886,307 : DECISION ON PETITION
PCT No.: PCT/US05/40050 :
Int. Filing Date: 04 November 2005 : UNDER 37 CFR 1.28
Priority Date: 14 March 2005 :
Attorney Docket No.: 044508-5017 :
For: HUMAN MONOCLONAL ANTIBODIES :
AGAINST HENDRA AND NIPAH VIRUSES :

This decision is in response to applicant's "PETITION FOR PAYMENT OF FEE DEFICIENCY UNDER 37 C.F.R. 1.28(c)" filed 02 January 2008 in the United States Patent and Trademark Office (USPTO) seeking a change from small entity to large entity status. No petition fee is required.

In order for the error to be corrected 37 CFR 1.28(c)(ii) requires the itemization of the original deficiency payment:

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Applicant has properly itemized all fees paid and the corresponding deficiency. Applicant has provided the USPTO with authorization to charge the remaining fees to deposit account number 50-0310. Therefore, it is proper to **GRANT** applicant's petition at this time to change the status of applicant from small entity to large entity for this application.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision including 1) changing applicant's entity status to large entity and 2) charging the authorized fees to deposit account number 50-0310.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
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FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE CENTER
997 LENOX DRIVE
BLDG. #3
LAWRENCEVILLE NJ 08648

MAILED

MAR 24 2010

OFFICE OF PETITIONS

In re Application of :
Ronald W. Pero :
Application No. 11/886,345 :
Filed: September 14, 2007 :
Attorney Docket No. 26663.00014 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 20, 2010.

The request is **NOT APPROVED**.

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

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

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. Genetic Health Enterprises, Attn: Leon Geustyn, is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAWRENCEVILLE NJ 08648

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Ronald W. Pero	:	DECISION ON PETITION
Application No. 11/886,345	:	TO WITHDRAW
Filed: September 14, 2007	:	FROM RECORD
Attorney Docket No. 26663.00014	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 1, 2010.

The request is **APPROVED**.

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

The request was signed by Gerard P. Norton on behalf of all attorneys of record who are associated with Customer No. 29880.

All attorneys/agents associated with Customer Number 29880 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Ronald W. Pero
1651 Rupert Road
Sandgate, Vermont 05250

12 SEP 2008

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MCNAIR LAW FIRM, P.A.
P.O. BOX 10827
GREENVILLE SC 29603-0827

In re Application of :
HUMMERT, George T., et al. :
Application No.: 11/886,350 : DECISION
PCT No.: PCT/US2006/006127 :
Int. Filing Date: 21 February 2006 : ON PETITION UNDER
Priority Date: 17 March 2005 :
Docket No.: 037476.00064 : 37 CFR 1.47(a)
For: TURF PLAYING SURFACE :
AERATION AND DRAINAGE :
SYSTEM

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 02 July 2008.

BACKGROUND

On 15 April 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 28 May 2008, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916).

On 02 July 2008, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors. The papers included a certificate of mailing indicated they were deposited on 30 June 2008.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Item (1), (3) and (4) have been met. The balance of the $200 petition fee will be charged to deposit account no. 50-2079, as authorized. Applicant states the last known address of Mr. Fredrick O. Hartenstein as 156 Greenspring Court, Martinez, GA 30907. The declaration complies with 37 CFR 1.497(a)-(b) and 1.47.

Item (2) has not been satisfied. Applicants must establish that the inventor has refused to sign the declaration after presentation with a complete copy of the application papers. Mr. Cort Flint does not have first hand knowledge of the presentation of the papers to the nonsigning inventor. He states that the "declaration" was sent to the inventor by the "CEO of the assignee." A refusal to sign the declaration in the absence of presentation with a complete copy of the application papers is not normally sufficient. Documentary evidence of presentation including cover letters and return mail receipts should be furnished.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter may be filed via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

5 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCNAIR LAW FIRM, P.A.
P.O. BOX 10827
GREENVILLE SC 29603-0827

In re Application of	:	
HUMMERT, George T., et al.	:	
Application No.: 11/886,350	:	DECISION
PCT No.: PCT/US2006/006127	:	
Int. Filing Date: 21 February 2006	:	ON PETITION UNDER
Priority Date: 17 March 2005	:	
Docket No.: 037476.00064	:	37 CFR 1.47(a)
For: TURF PLAYING SURFACE AERATION AND DRAINAGE SYSTEM	:	

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 08 December 2008.

BACKGROUND

On 12 September 2008, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 08 December 2008, applicants filed a declaration executed by the previously non-signing inventor, accompanied by the fee for a one month extension of time.

DISCUSSION

The declaration submitted on 08 December 2008, in combination with the declaration of the inventors submitted on 02 July 2008, complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

This application is being forwarded to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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05 OCT 2007

The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1845

In re Application of
KHANDAL, et al.
Application No.: 11/886,387
PCT No.: PCT/IN06/00012
Int. Filing Date: 16 January 2006
Priority Date: 17 January 2005
Atty. Docket No.: 4544-072484
For: PROCESS FOR POLYMERISATION OF DIETHYLENE GLYCOL BIS ALLYL CARBONATE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 September 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "The delay in entering the national phase of this application was unintentional" is being interpreted to mean that the entire delay in providing payment of the full U.S. Basic National Fee from the due date for paying the fee until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement 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. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 16 January 2006 under 35 U.S.C. 363 and will be given a date of **14 September 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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CST

February 17, 2009

In re application of Yoshiyuki Taguchi et al Serial No. 11/886,412 Filed: September 12, 2007 For: METHOD AND DEVICE FOR CLEANING CIRCULATION WATER	:	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 both filed December 3, 2008.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/886,445	09/14/2007	David Saad	132969-1000	4108

7590 03/12/2009

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

EXAMINER	
ART UNIT	PAPER NUMBER
2416	
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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

23 SEP 2008

COMMISSIONER FOR PATENTS
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of OZAWA et al	:	
U.S. Application No.: 11/886,458	:	
PCT Application No.: PCT/JP2006/305422	:	
Int. Filing Date: 17 March 2006	:	DECISION
Priority Date Claimed: 18 March 2005	:	
Attorney Docket No.: 0970-1019	:	
For: DETECTING CHIP AND METHOD OF DETECTING SUBSTANCE USING THE SAME	:	

This is in response to applicant's "Request and Fee to Add Original Not Named Inventors in Non-Provisional Application Under 37 CFR 1.48(A)" filed 01 April 2008, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 17 March 2006, applicant filed international application PCT/JP2006/305422, which claimed priority of an earlier Japan application filed 18 March 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 21 September 2006. The thirty-month period for paying the basic national fee in the United States expired on 18 September 2007.

On 17 September 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, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The present petition requests that Yusuke Nakamura and Yozo Ohnishi be added as inventors.

37 CFR 1.497(d) states,

> 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 92bis 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 § 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); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, written consent from the assignees has been provided.

With regard to item (4) above, a new declaration under 37 CFR 1.497(f) is not required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 17 March 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 01 April 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

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01 NOV 2007

Walter A. Hackler
2372 S.E. Bristol Street Ste. B
Newport Beach CA 92660

In re Application of	:	
BINMOELLER	:	
Application No.: 11/886,499	:	DECISION ON
PCT No.: PCT/US2005/044158	:	
Int. Filing Date: 07 December 2005	:	PETITION UNDER
Priority Date: 08 December 2004	:	
Attorney Docket No.: 3440 PCT	:	37 CFR 1.137(b)
For: METHOD AND APPARATUS FOR	:	
PERFORMING NEEDLE GUIDED INTERVENTIONS	:	

This decision is in response to applicant's submission filed 14 September 2007.

BACKGROUND

On 07 December 2005, applicant filed international application PCT/US2005/044158 which designated the U.S. and claimed a priority date of 08 December 2004. 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 08 June 2007.

On 14 September 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, 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 14 September 2007.

As to item (2), applicant submitted the petition fee on 14 September 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 inventor filed 14 September 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 08-0114.

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

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

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

Mail Date: 05/19/2010

Applicant	: Keitaro Yonezawa	: DECISION ON REQUEST FOR
Patent Number	: 7618030	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/886,517	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **114** 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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AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA, VA 22182-2683

MAILED

JUL 14 2009

OFFICE OF PETITIONS

Applicant: Tanaka, et al.
Appl. No.: 11/886,540
International Filing Date: March 16, 2006
Title: SYNTHESIS REACTION CATALYST AND METHOD OF SYNTHESIZING COMPOUND USING THE SAME
Attorney Docket No.: 71465.0020
Pub. No.: US 2009/0023943 A1
Pub. Date: January 22, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 25, 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 on the front page of the publication wherein one assignee's name is omitted from the first page of the publication.

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

The failure to include the both assignees on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the assignment information is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. See MPEP 1130. Applicant should not

[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).

file requests for corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130.

On October 15, 2008, a Filing Receipt was mailed by the Office, which only listed Daihatsu Motor Co., Ltd. as the assignee's name. To avoid this type of problem in the future, applicant's representative should correct the error and make a request for a corrected filing receipt prior to export of the application to the publisher and publication of the application.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/886,546	02/18/2009	Hakan Thysell	328205US8 PCT	6755

22850 7590 06/14/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HAIL, JOSEPH J	
ART UNIT	PAPER NUMBER
3723	

NOTIFICATION DATE	DELIVERY MODE
06/14/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
THYSELL, HAKAN	:	DECISION ON REQUEST TO
Application No. 11/886,546	:	PARTICIPATE IN PATENT
Filed: Feb. 18, 2009	:	PCT/PROSECUTION HIGHWAY
Attorney Docket No. 328205US8 PCT	:	PROGRAM AND PETITION
For: METHODS AND TOOL FOR MAINTENANCE OF HARD SURFACES, AND A METHOD FOR MANUFACTURING SUCH A TOOL	:	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 June 10, 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 disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO, KIPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) 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 PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate; and
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications.

In light of the petition being properly submitted, the request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The applicant is encouraged to cite and submit all relevant prior art references, if any, to facilitate examination in this application.

All other inquiries concerning the examination or status of the application should be directed to Joseph Hail, the SPE of Art Unit 3723, and 571-272-4485 for Class 451/41 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application will be docketed to an examiner for action on the merits commensurate with this decision.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

The petition is **granted.**

/Henry C. Yuen/

_____

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/886,636	09/18/2007	Kazuhiko Nojo	Q103879	6690

7590 11/23/2009

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

EXAMINER	
WEDDLE, ALEXANDER MARION	

ART UNIT	PAPER NUMBER
1792	

NOTIFICATION DATE	DELIVERY MODE
11/23/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Nimi Jarmes

Patent Publication Branch
Office of Data Management

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mmmmmUnited States Patent and Trademark Office
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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

8/26/09

In re Application of	:
KUNO, KOJI et al	: DECISION ON REQUEST TO
Application No. 11/886,655	: PARTICIPATE IN PATENT
Filed: Sep. 19, 2007	: PROSECUTION HIGHWAY
Attorney Docket No. 46884-5600 (411321)	: PROGRAM AND PETITION
For: LASER MACHINING METH	: TO MAKE SPECIAL UNDER
	: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 10, 2009, to make the above-identified application special.

The request is **GRANTED**.

Discussion

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

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

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

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

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

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

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

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

This request to participate in the PPH pilot program and petition meet the requirements (1) through (7), above.

CONCLUSION

The request to participate in the PPH program and petition comply with the above requirements. Receipt of the requested document is acknowledged and has been entered. Accordingly, the above-identified application has been accorded "special" status. Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

This application is being forwarded to the examiner for action on the merits commensurate with this decision. Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856. All other inquiries concerning the examination or status of the application should be directed to the Supervisory Patent Examiner Thomas Denion, Art Unit 3748, at 571-272-4859 and also accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

The petition make special is GRANTED.

/Henry C. Yuen/

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/886,664	08/26/2008	Masanobu Shinoda	0152-0706PUS3	7236

7590 03/25/2009

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
ART UNIT	PAPER NUMBER
1621	
NOTIFICATION DATE	DELIVERY MODE
03/25/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Tomi Farmer

Patent Publication Branch
Office of Data Management

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0 2 FEB 2009

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JoAnn Villamizar
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005

In re Application of	:	DECISION ON
March Ribeaud	:	
Application No.: 11/886,701	:	
PCT No.: PCT/EP2006/060644	:	
Int. Filing Date: 13 March 2006	:	PETITION UNDER
Priority Date: 21 March 2005	:	
Attorney's Docket No.: LA/1-23293/A/PCT	:	
For: ANTIWEAR LUBRICANT... ENGINES	:	37 CFR 1.10 (c)

This decision is in response to the "LETTER," filed on 12 October 2007, which is being treated as a petition 1.10(c), requesting that the receipt of the national stage papers be changed from September 18, 2007 to September 19, 2007 for the above identified national stage application. No fee is required for this petition.

BACKGROUND

On 19 September 2007, petitioner purportedly 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), and executed declaration.

On 12 October 2007, the present petition was filed to this Office requesting that the national stage application papers were filed on September 19, 2007, which would be pursuant to the "Express Mail" receipt showing an acceptance by the Post Office as September 19, 2007. However, no copy of the customer receipt of "Express Mail" Label as been provided by petitioner.

On 11 September 2008, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 18 September 2007, and a date of completion of all 35 USC 371 requirements of 21 September 2007.

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.

Applicant has satisfied requirement (1) but not items (2) and (3) under 37 CFR 1.10(c).

The petition was filed promptly. 37 CFR 1.10(c)(1).

A review of the application papers reveals that a copy of "Express Mail" Label has not been provided with the petition. Thus not satisfying requirement 2. CFR 1.10(c)(2).

A copy of the customer receipt of "Express Mail" Label has not been filed with the present petition. Thus requirement 37 CFR 1.10(c)(3) has not been met.

Accordingly, the requirements under 37 CFR 1.10(c) have not been satisfied.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision.

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.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/886,742	09/20/2007	Shinichi Ikehara	027596-00043	8433

7590 04/06/2009

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER	
ART UNIT	PAPER NUMBER
2863	
NOTIFICATION DATE	DELIVERY MODE
04/06/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

2 8 NOV 2007

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ALEXANDRIA, VA 22313-1450
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THE KLINE LAW FIRM, P.C.
161 LITTLE POND LANE
PALMYRA, VA 22963-5161

In re Application of ALBIZURI	:	
U.S. Application No.: 11/886,798	:	
PCT Application No.: PCT/EP2006/001143	:	
Int. Filing Date: 09 February 2006	:	DECISION
Priority Date Claimed: 10 February 2005	:	
Attorney Docket No.: FA074	:	
For: ROTARY VALVE ARRANGED IN A MULTI-GAS COOKER	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 20 September 2007.

BACKGROUND

On 09 February 2006, applicant filed international application PCT/EP2006/001143, which claimed priority of an earlier Spain application filed 10 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 17 August 2006. The thirty-month period for paying the basic national fee in the United States expired on 10 August 2007.

International application PCT/EP2006/001143 became abandoned as to the United States for failure to timely pay the basic national fee.

On 20 September 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 09 February 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 September 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

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Satoshi Maekawa	: DECISION ON REQUEST FOR
Patent Number	: 7647838	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/886,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **152** 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

2 2 JUN 2009

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
NIMURA, et al.	:	
Application No.: 11/886,907	:	
PCT No.: PCT/JP2006/306375	:	REQUEST FOR STATUS
Int. Filing Date: 22 March 2006	:	
Priority Date: 22 March 2005	:	UNDER 37 CFR 1.42
Attorney Docket No.: 1032879-000127	:	
For: CELLULOSE ACYLATE FILM, POLARIZING PLATE AND LIQUID CRYSTAL DISPLAY	:	

This decision is in response to applicant's declaration filed 30 October 2007 in the United States Patent and Trademark Office (USPTO). The declaration is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 22 March 2006, applicant filed international application PCT/JP2006/306375 which claimed a priority date of 22 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 September 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 22 September 2007.

On 21 September 2007, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; an Application Data Sheet; an Information Disclosure Statement and a First Preliminary Amendment.

On 30 October 2007, applicant filed the declaration discussed herein executed by co-inventor Shigeaki Nimura and by Takako Nishiura as the legal representative of the estate of deceased co-inventor Yosuke Nishiura.

On 04 June 2009, applicant was mailed a "Notice of Acceptance" (Form PCT/DO/EO/903).

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The filed declaration is executed by Takako Nishiura as the legal representative of the estate of deceased co-inventor Yosuke Nishiura. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one individual; presumably the legal representative, Takako Nishiura. In order to comply with 37 CFR 1.497(b), this information must be provided for both the deceased inventor and his legal representative.

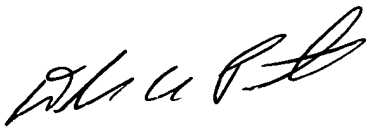
CONCLUSION

The Form PCT/DO/EO/903 mailed 04 June 2009 is hereby **VACATED**.

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration or electronically filed via the Office's EFS-Web electronic filing system.



Derek A. Putonen
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UNITED STATES PATENT AND TRADEMARK OFFICE

22 JAN 2010

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ALEXANDRIA VA 22313-1404

In re Application of	:	
NIMURA, et al.	:	
Application No.: 11/886,907	:	
PCT No.: PCT/JP2006/306375	:	REQUEST FOR STATUS
Int. Filing Date: 22 March 2006	:	
Priority Date: 22 March 2005	:	UNDER 37 CFR 1.42
Attorney Docket No.: 1032879-000127	:	
For: CELLULOSE ACYLATE FILM, POLARIZING PLATE AND LIQUID CRYSTAL DISPLAY	:	

In a decision mailed by this Office on 22 June 2009, the declaration filed by applicant on behalf of deceased co-inventor Yosuke Nishiura was dismissed for failure to provide a compliant oath or declaration under 37 CFR 1.497.

On 18 August 2009, applicant filed a response to the previous decision that was accompanied by a substitute declaration. The submitted declaration identifies the deceased co-inventor and states the deceased inventor's country of citizenship and residence, is signed by Takako Nishiura as "legal representative," states his/her relationship to the deceased (i.e., Legal Representative), provides the Legal Representative's country of citizenship and residency and lists both of the co-inventors on the application. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 22 March 2006 under 35 U.S.C. 363 and will be given a date of **18 August 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Applicant supplement the 18 August 2009 filing with an additional filing of 12 January 2010 in response to a form PCT/DO/EO/905 mailed 08 January 2010. For the reasons detailed in applicant's 12 January 2010 response and the decision above, the Form PCT/DO/EO/905 is hereby **VACATED**.

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

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United States Patent and Trademark Office

18 DEC 2008

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In re Application of
Frankard et al.
Application No. 11/887,056
PCT No.: PCT/EP2006/002895
Int. Filing Date: 24 March 2006
Priority Date: 25 March 2005
Atty. Docket No.: 14546-00022-US
For: Plants Having Increased Yield And Method For Making The Same

DECISION

This is in response to the refund request filed on 14 October 2008.

BACKGROUND

This international application was filed on 24 March 2006, claimed an earliest priority date of 25 March 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 28 September 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 25 September 2007. Applicants filed, *inter alia*, the basic national fee on 25 September 2007.

On 31 March 2008, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be "11/12/2007."

DISCUSSION

Petitioner complains that the fees charged for this application were in error, in view of a preliminary amendment filed on 25 September 2007 "that requested the Sequence Listing be deleted from the International Application and to replace it with the Sequence Listing submitted on compact disc, which was enclosed." Petitioner urges that "Because the number of pages in the Application is less than 100, the Application Size Fee of $250.00 charged for this National Stage Application is in error."

Review of the record reveals that the published international application included a 55-sheet Sequence Listing, and that the papers filed on 25 September 2007 included a Preliminary Amendment deleting it. However, applicant is respectfully advised that the policy of the USPTO is to charge the Application Size Fee based on the number of sheets included in the published international application, even if the Sequence Listing is subsequently altered or deleted by a preliminary amendment. *See* http://www.uspto.gov/web/patents/hr4818/qna.htm#B (Note B7 and B10). Thus, the charging of the Application Size Fee in this case was appropriate.

DECISION

The refund request is **DISMISSED**, 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).

This application is being returned to Technology Center 1638.

/George Dombroske/
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07 NOV 2008

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

In re Application of LA MARCA et al	:	
U.S. Application No.: 11/887,078	:	
PCT Application No.: PCT/FR2006/000653	:	
Int. Filing Date: 24 March 2006	:	
Priority Date Claimed: 25 March 2005	:	DECISION
Attorney Docket No.: 0529-1051-1	:	
For: DEVICE FOR DETECTING AN OBSTACLE AND LIMITING THE FORCE OF AN APRON IN A GOODS-HANDLING DOOR	:	

This is in response to the correspondence filed 31 October 2007, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 24 March 2006, applicant filed international application PCT/FR2006/000653, which claimed priority of an earlier France application filed 26 March 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 28 September 2006. The thirty-month period for paying the basic national fee in the United States expired on 25 September 2007.

On 25 September 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 31 October 2007, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

The declaration states that joint inventor Bernard Simon 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 31 October 2007 is in compliance with 37 CFR 1.42 and 37 CFR 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 24 March 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 31 October 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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UNITED STATES PATENT AND TRADEMARK OFFICE

30 JUL 2009

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EDWARDS VACUUM, INC.
2041 MISSION COLLEGE BOULEVARD
SUITE 260
SANTA CLARA CA 95054

In re Application of:
SHAW, Christopher, John, et al.
U.S. Application No.: 11/887,124
PCT No.: PCT/GB2006/000840
International Filing Date: 09 March 2006
Priority Date: 22 March 2005
Atty's Docket No.: MO5B119
For: TRAP DEVICE

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition For Filing Under 37 CFR 1.47(a)" filed 23 April 2009. Applicants have paid the required $200 petition fee.

BACKGROUND

On 09 March 2006, applicants filed international application PCT/GB2006/000840. The international application claimed a priority date of 22 March 2005, and it designated the United States. On 28 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., 24 September 2007 (22 September 2007 was a Saturday).

On 24 September 2007, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 25 November 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration 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 23 April 2009, applicants filed a response to the Notification Of Missing Requirements (with required three-month extension fee). The response 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 Graeme HUNTLEY, 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.

The present petition was accompanied by payment of 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 that contains an unsigned signature block for the non-signing inventor and is executed by the other two inventors of record. 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 a firsthand statement, accompanied by supporting documents, demonstrating that a request for signature, accompanied by a copy of the complete application, has twice been forwarded to the non-signing inventor at his last known address, that the materials were received by the inventor, and that the inventor has failed to provide the requested signature in response to such requests. 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 Graeme HUNTLEY.

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, including consideration of the additional sequence listing materials filed by applicants on 02 October 2008. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 23 April 2009.

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UNITED STATES PATENT AND TRADEMARK OFFICE

30 JUL 2009

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Graeme HUNTLEY
2a Lower St. James Street
Newport
Isle of Wight
PO30 5HE
UNITED KINGDOM

In re Application of: SHAW, Christopher, John, et al.
U.S. Application No.: 11/887,124
PCT No.: PCT/GB2006/000840
International Filing Date: 09 March 2006
Priority Date: 22 March 2005
Atty's Docket No.: MO5B119
For: TRAP DEVICE

Dear Mr. HUNTLEY:

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.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
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Counsel Of Record:
Mary K. Nicholes
EDWARDS VACUUM, INC.
2041 MISSION COLLEGE BOULEVARD
SUITE 260
SANTA CLARA CA 95054

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/11/2010

TO SPE OF : ART UNIT 2821 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/887,161 Patent No.: 7,656,357

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

_____

_____

_____

SPE Douglas K. Owen **ART UNIT** 2821

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Kiyoshi Minoura	: DECISION ON REQUEST FOR
Patent Number	: 7586559	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/887,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **111** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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12 OCT 2007

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
LORENZO, et al.	:	
U.S. Application No.: 11/887,167	:	DECISION ON PETITION
PCT No.: PCT/ES06/00096	:	
Int. Filing Date: 15 February 2006	:	UNDER 37 CFR 1.137(b)
Priority Date: 25 February 2005	:	
Attorney Docket No.: 15053.0068USWO	:	
For: METHOD OF OBTAINING HYDROGELS OF CYCLODEXTRINS WITH GLYCIDYL EHTERS COMPOSITIONS, THUS OBTAINED AND APPLICATIONS THEREOF	:	

The petition to revive under 37 CFR 1.137(b) filed 26 September 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the abandonment and the delay, until the filing of this and the U.S. National Stage application was unintentional" is being interpreted to mean that the entire delay in providing payment of the full U.S. Basic National Fee from the due date for paying the fee until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement 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 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 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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

29 SEP 2009

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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

In re Application of :
WEST, Robert Andrew, et al. :
Application No.: 11/887,180 :
PCT No.: PCT/AU2006/000413 :
Int. Filing Date: 29 March 2006 : DECISION
Priority Date: 29 March 2005 :
Attorney Docket No.: 3079-1-001PCT/US :
For: METHOD OF ENCAPSULATING A POST :

This decision is in response to applicants' submission in response to the Notification of Defective Response, filed with the United States Patent and Trademark Office on 15 June 2009.

On 14 May 2009, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration contained a modification of the spelling of an inventor's name and an explanation was required.

On 15 June 2009, applicants filed this response and explanation.

The international application lists the second named inventor as "David Scott McDonald," while the declaration lists the second named inventor as "David Scott MacDonald." Applicants state this discrepancy is the result of a typographical error and that the correct spelling of the inventor's name is "David Scott MacDonald". The declaration filed 12 December 2008, now complies with 37 CFR 1.497(a)-(b).

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.

/Erin P. Thomson/

Erin P. Thomson
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11 OCT 2007

DONN K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR CA 92014

In re Application of:
GRANT, Isaac, W.
U.S. Application No.: 11/887,214
PCT No.: PCT/US2005/046845
International Filing Date: 22 December 2005
Priority Date: 05 January 2005
Atty Docket No.: 3994-PAT
For: COORDINATE DESIGNATION INTERFACE

DECISION ON PETITION
(37 CFR 1.137(b))

The petition for revival under 37 CFR 1.137(b) filed 19 September 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 small entity 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. Payment of the surcharge for filing the declaration later than thirty months after the priority date is required (the present submission did not authorize a charge for such fees).

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 19 September 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

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

COPY MAILED
FEB 17 2010

In re Application of :
Kiyoshi ASAHINA, et *al.* :
Application No. 11/887,219 : DECISION GRANTING PETITION
Filed: September 27, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **KOBE.0122** :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 13, 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 2855 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.
11/887,281	09/27/2007	Toru Kitamura	10996.0258-00	3049

22852 7590 08/24/2009

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

EXAMINER	
KUNDU, SUJOY K	

ART UNIT	PAPER NUMBER
2863	

MAIL DATE	DELIVERY MODE
08/24/2009	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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

Applicant: Kitamura et al.
Appl. No.: 11/887,281
Filing Date: September 27, 2007
Title: TRAVELING DIRECTION MEASURING APPARATUS AND TRAVELING DIRECTION MEASURING METHOD
Attorney Docket No.: 10996.0258-00
Pub. No.: US 2009/0143972 A1
Pub. Date: June 4, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on August 18, 2009, 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 request in paper rather than via the Office electronic filing system. In addition, the Applicant did not submit a copy of the application. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

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

Office of Data Management
United States Patent & Trademark Office

Adjustment date: 08/24/2009 KKING1
08/19/2009 SZEWDIE1 00000052 11887281
01 FC:1504 -300.00 OP

Repln. Ref: 08/24/2009 KKING1 0012174000
DA#:060916 Name/Number:11887281
FC: 9204 $300.00 CR

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/887,331		Seiji Karashima	079195-0226	2576

53080 7590 05/08/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER	
ART UNIT	PAPER NUMBER
2811	

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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of
Seiji KARASHIMA
Application No.: 11/887,331
Filed: September 28, 2007
Attorney Docket No.: 079195-0226
For: FLIP CHIP MOUNTING METHOD AND METHOD FOR CONNECTING SUBSTRATES

: DECISION ON REQUEST TO
: PARTICIPATE IN THE 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 March 5, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application 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).

Regarding condition 5, it is noted Petitioner has not provided any copy of the JPO Office Action nor has Petitioner stated that the JPO allowed this application in a first action allowance. However upon inspection of the Dossier Access System it was found that the JPO has allowed the Japanese Application in the first action, and the requirement of making this positive statement is waived.

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

Telephone inquiries concerning this decision should be directed to Brian Sircus at 571 272 2058.

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

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

Brian Sircus
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.
11/887,332		Seiji Karashima	079195-0225	2577

53080 7590 03/31/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER	
ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
03/31/2008	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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of
Seiji KARASHIMA
Application No.: 11/887,331
Filed: September 28, 2007
Attorney Docket No.: 079195-0226
For: FLIP CHIP MOUNTING METHOD AND METHOD FOR CONNECTING SUBSTRATES

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

APR - 1 2008

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 March 5, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application 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;
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    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).

Regarding condition 5, it is noted Petitioner has not provided any copy of the JPO Office Action nor has Petitioner stated that the JPO allowed this application in a first action allowance. However upon inspection of the Dossier Access System it was found that the JPO has allowed the Japanese Application in the first action, and the requirement of making this positive statement is waived.

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

Telephone inquiries concerning this decision should be directed to Brian Sircus at 571 272 2058.

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

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

Brian Sircus
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.
11/887,332		Seiji Karashima	079195-0225	2577

53080 7590 03/31/2008
MCDERMOTT WILL & EMERY LLP
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EXAMINER	
ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
03/31/2008	PAPER

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of
Seiji KARASHIMA
Application No.: 11/887,332
Filed: September 28, 2007
Attorney Docket No.: 079195-0225
For: FLIP CHIP MOUNTING METHOD AND BUMP FORMING METHOD

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

APR - 1 2008

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 March 5, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application 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
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        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;
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    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).

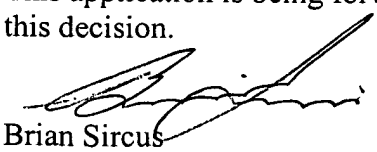
Regarding condition 5, it is noted Petitioner has not provided any copy of the JPO Office Action nor has Petitioner stated that the JPO allowed this application in a first action allowance. However upon inspection of the Dossier Access System it was found that the JPO has allowed the Japanese Application in the first action, and the requirement of making this positive statement is waived.

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

Telephone inquiries concerning this decision should be directed to Brian Sircus at 571 272 2058.

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

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



Brian Sircus
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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16 OCT 2009

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
TANIGUCHI	:	
Application No.: 11/887,337	:	DECISION ON PETITIONS
PCT No.: PCT/JP2006/306838	:	
Int. Filing Date: 31 March 2006	:	UNDER 37 CFR 1.181
Priority Date: 31 March 2005	:	
Attorney Docket No.: 133613	:	
For: RECEIVING APPARATUS, SIGNAL PROCESSING CIRCUIT, AND RECEIVING SYSTEM	:	

This decision is in response to applicant's correspondence filed 28 July 2009 and request for refund filed 26 August 2009 in the United States Patent and Trademark Office (USPTO). The requests are being treated pursuant to 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 31 March 2006, applicant filed international application PCT/JP2006/306838 which claimed priority to an earlier application filed 31 March 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 October 2006. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 September 2007.

On 28 September 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); an English translation of the international application and an Application Data Sheet.

On 20 July 2009, 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 a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file a proper response.

On 28 July 2009, applicant filed the present petition arguing that an executed declaration of the inventors had been supplied on 01 October 2007.

On 26 August 2009, applicant filed a request for refund of the $130.00 surcharge charged to applicant's deposit account on 24 August 2009.

On 26 August 2009, applicant was mailed a "NOTICE OF ACCEPTANCE" (Form PCT/DO/EO/903) indicating a date of 28 February 2009 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. (See MPEP 503). An examination of the petition finds that applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and a statement that the copy currently provided is a copy of the papers filed on 01 October 2007. The postcard identifies the application by title, applicant and attorney docket number. Among the items listed on the receipt is: "DEC." The receipt is stamped "OIPE IAP97 PATENT & TRADEMARK OFFICE OCT 01 2007." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed an executed declaration on 01 October 2007. It is therefore proper to grant applicant's petition to assign a 35 U.S.C. 371 date of 01 October 2007 to the present application.

Further, 30 September 2007 being a Sunday, the filing on 01 October 2007 is considered within the 30 month deadline for providing an executed oath or declaration of the inventors without the need to provide payment of a surcharge. As such, applicant's request for refund is also granted and $130.00 will be credited to deposit account number: 15-0461.

CONCLUSION

For the reasons detailed above, applicant's petitions under 37 CFR 1.181 are **GRANTED**.

The Form PCT/DO/EO/903 mailed 26 August 2009 is hereby **VACATED**.

The application has an international filing date of 31 March 2006 under 35 U.S.C. 363 and will be given a date of **01 October 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance 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) and a filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

30 JUL 2009

Commissioner for Patents
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In Re Application of	:	
INOUE et al.	:	
Application No.: 11/887,343	:	DECISION ON
PCT No.: PCT/JP06/3064586	:	
Int. Filing Date: 29 March 2006	:	PETITION
Priority Date: 31 March 2005	:	
Attorney Docket No.: 133064	:	
For: REDUCING APPARATUS AND METHOD, RECEIVING APPARATUS	:	

This is a decision on applicant's "REQUEST FOR CORRECTION OF PALM RECORDS" filed in the United States Patent and Trademark Office (USPTO) on 14 May 2009 and refiled on 01 June 2009.

BACKGROUND

On 29 March 2006, applicant filed international application No. PCT/JP06/306586 which claimed a priority date of 31 March 2005 and which designated the United States. Thereafter, on 31 September 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.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 12 November 2008, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 14 November 2008, applicant responded with a declaration. On 07 May 2009, 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 14 November 2008.

On 14 May 2009, applicant filed a Request for a Corrected Filing Receipt to correct the filing date to 01 October 2007 and the residence of the inventors. On 21 May 2009, a corrected filing receipt was mailed to applicant, correcting the residence of the inventors. On 01 June 2009, applicant filed a Second Request for a Corrected Filing Receipt to correct the filing date to 01 October 2007.

DISCUSSION

MPEP Section 1893.03(b) states "An international application designating the U.S. has

two stage (international and national) with the filing date being the same in both stages. Often the entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application." *See* 35 U.S.C. 363 and PCT Treaty Article 11(3) (which provides that an international filing date shall be considered the actual filing date in each designated State).

It is further stated in section 1893.03(b) that 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 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements and it indicates the date of completion of all 35 U.S.C. 371 requirements. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

The Notification of Missing Requirements advised applicant of the deficiency-a declaration in compliance with 37 CFR 1.497(a) and (b) was required.[1] Applicants responded to the Notification of Missing Requirements, on 14 November 2008, with such declaration. Thus, on 14 November 2008, all of the 35 U.S.C. 371 requirements were complete. The 07 May 2009 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 November 2008, 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 thus, remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct Palm Records and the Filing Receipt is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 14 May 2008 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 14 November 2008.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

[1]As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are required to file an oath or declaration, in compliance with 37 CFR 1.497(a). *See* 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c).

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In Re Application of	:	
INOUE et al.	:	
Application No.: 11/887,343	:	DECISION ON
PCT No.: PCT/JP06/3064586	:	
Int. Filing Date: 29 March 2006	:	PETITION UNDER
Priority Date: 31 March 2005	:	
Attorney Docket No.: 133064	:	37 CFR 1.181
For: REDUCING APPARATUS AND METHOD, RECEIVING APPARATUS	:	

This is a decision on applicant's submission filed in the United States Patent and Trademark Office on 14 November 2008 requesting acceptance of a copy of the declaration in lieu of the original declaration filed on 01 October 2007. The submission will be treated under 37 CFR 1.181.

BACKGROUND

On 31 September 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.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 12 November 2008, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 14 November 2008, applicant responded with a copy of a declaration originally filed on 01 October 2007. On 07 May 2009, 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 14 November 2008.

On 14 May 2009, applicant filed a Request for a Corrected Filing Receipt to correct the filing date to 01 October 2007 and the residence of the inventors. On 21 May 2009, a corrected filing receipt was mailed to applicant, correcting the residence of the inventors. On 01 June 2009, applicant filed a Second Request for a Corrected Filing Receipt to correct the filing date to 01 October 2007. On 20 July 2009, a decision was mailed to applicant indicating that the 903 was correct.

DISCUSSION

The Notification of Missing Requirements advised applicant of the deficiency-a declaration in compliance with 37 CFR 1.497(a) and (b) was required.[1] Applicants responded to the Notification of Missing Requirements, on 14 November 2008, with such declaration along with a copy of a USPTO date-stamped itemized receipt.

As stated in section 503 of the Manual of Patent Examining Procedure, a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that a complete copy of the executed declaration was originally filed on 01 October 2007 and provides a copy of the USPTO date-stamped receipt. The receipt identifies the attorney docket number, title and name of applicants. Listed on the postcard receipt is "PCT Trans.; Dec.; Trans. POA; Gen POA; Cpy of Assign.". The postcard is date-stamped by the USPTO "OIPE OCT 01 2007".

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration was deposited with the USPTO on 01 October 2007. Applicant has presented a copy of the papers originally filed on 01 October 2007 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the declaration was received in the USPTO on 01 October 2007 and that the postcard receipt indicating a date of 01 October 2007 was received by the USPTO. Accordingly, the Office accepts the copy of the papers as a replacement for the missing original documents with a deposit date of 01 October 2007. A review of the declaration reveals that the declaration identifies and is executed by each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

The 20 July 2009 decision was mailed to applicant indicating that the 903 was correct is hereby **VACATED**. The Notification of Acceptance mailed on 07 May 2009 is hereby **VACATED**.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**. The 07 May 2009 Notification of Acceptance is hereby **VACATED**. The 20 July 2009 decision was mailed to applicant

---

[1]As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are required to file an oath or declaration, in compliance with 37 CFR 1.497(a). *See* 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c).

indicating that the 903 was correct is hereby **VACATED**.

The copy of the declaration originally submitted on 01 October 2007 and resubmitted on 14 November 2008 is acceptable and meets the requirements of 37 CFR 1.497(a) and (b). The surcharge of $130 was paid on 14 November 2008.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including issuance of a new Notification of Acceptance indicating a date of completion of all 35 U.S.C. 371 requirements and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **01 October 2007.**

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In re Application of :
Hanafusa et al. :
Application No.: 11/887,356 :
PCT No.: PCT/JP2006/306732 :
Int. Filing Date: 30 March 2006 : DECISION
Priority Date: 30 March 2005 :
Attorney Docket No.: NOG-0205 :
For: Apparatus For Determining Gene Polymorphism :

This is in response to the "Petition For Correction Of Inventorship Under 37 C.F.R. §1.48(a)" filed on 07 November 2008, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 30 March 2006, claimed an earlier priority date of 30 March 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 October 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 30 September 2007. Applicants filed *inter alia* the basic national fee on 28 September 2007.

DISCUSSION

The instant "petition" requests "that the name of Yusuke NAKAMURA and Yozo OHNISHI be added to the inventive entity in the above-identified application."Counsel requests treatment under 37 CFR 1.48(a), but 37 CFR 1.497(d) is the regulation most pertinent to the fact situation presented. 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 Yusuke Nakamura and Yozo Ohnishi.

Regarding requirement (2), the processing fee was paid on 07 November 2008.

Regarding requirement (3), counsel provides "Written Consent of the Assignee" sheets relating to three assignees: Shimadzu Corporation, RIKEN and Toppan Printing Co., Ltd. Each of these documents states that the respective assignee consents to the proposed change in inventorship, and each is signed by an individual whose title conveys apparent authority to act on behalf of the respective assignee. However, none of the Consent sheets affirms that

documentary evidence of a chain of title was submitted for recordation, and none specifies the reel and frame number where such evidence has been recorded. Therefore, 37 CFR 3.73(b)(1) has not been satisfied. In addition, each of the Consent sheets suggests that the respective assignee enjoys an undivided ownership interest (by referring to "the" Assignee); none clearly identifies the extent (by percentage) of the ownership interest as required by 37 CFR 3.73(c)(2). As such, it would not be appropriate to consider requirement (3) to have been satisfied at this time.

Counsel is advised that the surcharge under 37 CFR 1.492(h) has not been paid.

DECISION

The declaration 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.

/George Dombroske/
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United States Patent and Trademark Office

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In re Application of
Hanafusa et al.
Application No.: 11/887,356
PCT No.: PCT/JP2006/306732
Int. Filing Date: 30 March 2006
Priority Date: 30 March 2005
Attorney Docket No.: NOG-0205
For: Apparatus For Determining Gene Polymorphism

DECISION

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 20 June 2009.

DISCUSSION

In a Decision mailed on 21 April 2009, the declaration was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (3), counsel provides "Written Consent of the Assignee" sheets relating to three assignees: Shimadzu Corporation, RIKEN and Toppan Printing Co., Ltd. Each of these documents states that the respective assignee consents to the proposed change in inventorship, and each is signed by an individual whose title conveys apparent authority to act on behalf of the respective assignee. However, none of the Consent sheets affirms that documentary evidence of a chain of title was submitted for recordation, and none specifies the reel and frame number where such evidence has been recorded. Therefore, 37 CFR 3.73(b)(1) has not been satisfied. In addition, each of the Consent sheets suggests that the respective assignee enjoys an undivided ownership interest (by referring to "the" Assignee); none clearly identifies the extent (by percentage) of the ownership interest as required by 37 CFR 3.73(c)(2). As such, it would not be appropriate to consider requirement (3) to have been satisfied at this time.

In response, applicants have now provided 37 CFR 3.73(b) statements from assignees RIKEN, Shimadzu and Toppan Printing, signed by an individual who asserts authority to act, referring to recorded assignment documents and setting forth their respective percentage ownership in the application. The requirements of 37 CFR 3.73(b) now have been satisfied. Accordingly, it would be appropriate to accept the declaration filed on 07 November 2008 for purposes of compliance with 37 CFR 1.497(a) and (b).

Further review of the application filed reveals that the request for correction of inventorship (filed on 07 November 2008) was filed prior to the acceptance of the application as satisfying the requirements for entry into the national stage. Accordingly, under the procedure described at MPEP 201.03, this matter properly has been decided in the Office of PCT Legal Administration. Upon further review, the declaration filed on 28 September 2007 properly would have been found to satisfy the requirements of 35 U.S.C. 371(c)(4) and 37 CFR 1.497(a)

and (b) if the application had been processed prior to the submission of the request for correction of inventorship. Therefore, it would be appropriate to accord the application a date under 35 U.S.C. 371(c)(1), (2) and (4) of **28 September 2007**.

DECISION

The declaration 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 **28 September 2007**.

/George Dombroske/
George Dombroske
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UNITED STATES PATENT AND TRADEMARK OFFICE

24 JUL 2009

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Cheng Law Group, PLLC
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Suite 503
Washington DC 20036

In re Application of	:	
HANAFUSA, et al.	:	DECISION ON PETITION
U.S. Application No.: 11/887,387	:	
PCT No.: PCT/JP2006/306550	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 29 March 2006	:	
Priority Date: 29 March 2005	:	
Atty Docket No.: NOG-0204	:	
For: REACTION VESSEL, REACTION VESSEL PROCESSING APPARATUS AND DIAGNOSTIC APPARATUS	:	

This decision is in response to applicant's "Petition For Correction Inventorship Under 37 C.F.R. § 1.48(a)" filed 07 November 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated pursuant to 37 CFR 1.497(d). Applicant has provided payment of the $130.00 petition fee.

BACKGROUND

On 29 March 2006, applicant filed international application PCT/JP2006/306550 which claimed priority to a prior application filed 29 March 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 29 September 2007.

On 28 September 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 07 November 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 statements from Yusuke Nakamura and Yozo Ohnishi declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has provided a declaration executed by the inventors listed on the published international application which includes and has been signed by Yusuke Nakamura and Yozo Ohnishi .

As Item (3), applicant has provided payment of $130.00 petition fee.

Regarding Item (4), applicant has provided a statement from the assignee consenting to the addition of Yusuke Nakamura and Yozo Ohnishi as inventors 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 29 March 2006 and will be given a date of **07 November 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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Application of	:	
ITO et al.	:	
Application No.: 11/887,389	:	
PCT No.: PCT/JP2006/307388	:	
Int. Filing Date: 31 March 2006	:	DECISION
Priority Date: 01 April 2005	:	
Attorney Docket No.: H6790.0029/P029	:	
For: OPTICAL RECORDING MEDIUM AND OPTICAL RECORDING METHOD	:	

The decision is in response to applicant's petition under 37 CFR 1.182 filed in the USPTO on 22 April 2008.

BACKGROUND

On 31 March 2006, applicant filed international application PCT/JP2006/307388 which designated the United States and claimed a priority date of 01 April 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 October 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 October 2007.

On 28 September 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 01 November 2007, applicants filed a declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 22 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 the declaration of inventors filed 01 November 2007 was not in compliance with 37 CFR 1.497(a)-(b) because the third inventor's name on the declaration (Mikiko Takada) did not match the name on the published international application (Mikiko Abe).

On 22 April 2008, applicant submitted the instant petition under 37 CFR 1.182. The petition was accompanied by an affidavit of Mikiko Takada.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. The petition must include (1) the appropriate petition fee and (2) an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. MPEP § 605.04(c).

As to item (1), the petition fee has been paid.

With regard to item (2), the affidavit of Mikiko Takada is an affidavit setting forth both names (Mikiko Abe and Mikiko Takada) and the procedure (marriage) whereby the change of name was effected. The affidavit is accepted.

Declaration of Inventors

The declaration of inventors filed 01 November 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/887,535		Hiroaki Kataoka	132857	6122

7590 03/05/2008

EXAMINER	
ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
03/05/2008	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
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FROM DIRECTORS OFFICE

MAR 0 4 2008

TECHNOLOGY CENTER 3600

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of
Hiroaki Kataoka
Application No. 11/887,535
Filed: October 1, 2007
For: VEHICLE DEPARTURE DETECTING 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) pilot program and the petition under 37 CFR 1.102(d), filed December 27, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

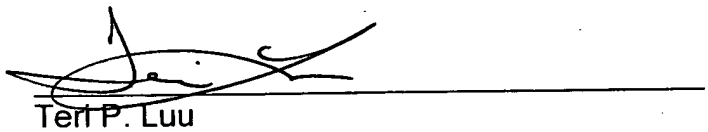
A grantable request to participate in the PPH pilot program and petition to make special require:

(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).

In light of the preliminary amendment filed December 27, 2007 with the petition, the request to participate in the PPH pilot program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

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.

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



Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 03/03/08

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Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of	:	
SELVARAJAN, et al.	:	
Serial No.: 11/887,547	:	DECISION ON PETITION
PCT No.: PCT/AU2006/000417	:	
Int. Filing Date: 29 March 2006	:	UNDER 37 CFR 1.181
Priority Date: 01 April 2005	:	
Attorney Docket No.: 4398-755	:	
For: VENTLESS MASK CPAP SYSTEM	:	

This decision is in response to applicant's correspondence filed 28 September 2009 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition under 37 CFR 1.181 to assign a 35 U.S.C. 371 date of 01 October 2007. No petition fee is required.

BACKGROUND

On 29 March 2006, applicant filed international application PCT/AU2006/000417, which claimed a priority date of 01 April 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 October 2006. 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, 01 October 2007.

On 01 October 2007, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an Information Disclosure Statement and a preliminary amendment.

On 28 July 2009, 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 file an executed oath or declaration of the inventors. 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 28 September 2009, applicant filed a letter with the USPTO stating that the declaration submitted in the international application satisfied the requirements of 35 U.S.C. 371 (c)(4).

DISCUSSION

The declaration in question was filed in the international application subsequent to the international filing date. The declaration does not identify the international application number. 37 CFR 1.63 requires that an oath or declaration identify the specification to which it is directed. The Manual of Patent Examining Procedure (MPEP) section 602 further explains:

> The following combination of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:
>
> (A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;
>
> (B) name of inventor(s), and attorney docket number which was on the specification as filed; or
>
> (C) name of inventor(s), and title of the invention which was on the specification as filed.

Applicant argues that the declaration is in compliance with 37 CFR 1.497(a) because the "Declaration identifies the names of all of the inventors and the title of the invention (see page 1 of the Request/Declaration)." However, applicant's interpretation is incorrect. While the Form PCT/RO/101 identifies the title of the invention, the declaration does not. As such, the declaration does not comply with 37 CFR 1.497(a)-(b). Applicant is directed to PCT Rule 26ter for further information for filing a declaration in an international application subsequent to the international filing date.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED**.

The time period for responding to the Form PCT/DO/EO/905 mailed 28 July 2009 continues to run.

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.

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WOLF, GREENFIELD & SACKS, P.C.
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BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

Applicant: David A. Berry, et al.
Appl. No.: 11/887,561
International Filing Date: March 29, 2006
Title: COMPOSITIONS AND METHODS FOR REGULATING INFLAMMATORY RESPONSES
Pub. No.: US 2009/0156477 A1
Pub. Date: June 18, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) or (a), received on July 13, 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

2 8 AUG 2008

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Okada et al.	:	
Application No.: 11/887,586	:	DECISION
PCT No.: PCT/JP2005/021971	:	
Int. Filing Date: 30 November 2005	:	ON
Priority Date: 28 April 2005	:	
Attorney Docket No.: 134157	:	PETITION
For: Electrical Equipment	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 05 August 2008.

BACKGROUND

This international application was filed on 30 November 2005, claimed an earlier priority date of 28 April 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 09 November 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 October 2007. Applicants filed *inter alia* the basic national fee on 01 October 2007.

DISCUSSION

Petitioner alleges that joint inventor Ishikura "cannot be found or reached after diligent effort."A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, petitioner has paid the $200.00 petition fee.

Regarding **requirement (2)**, counsel provides a "Declaration Under 37 CFR 1.47(a)" signed by Masakuni Kasugai, who describes the sending of parcels to non-signing inventor Ishikura on two separate dates, both of which he says were "duly returned" for the reason that "Mr. Masayuki Ishikura has moved from his last known address." However, petitioner does not recount any efforts undertaken to ascertain Mr. Ishikura's present whereabouts, after it was determined that he had moved. For instance, no evidence has been presented describing telephone directory searches, internet searches, voter registration searches, consultations with known associates, or other efforts made to determine the inventor's current address. Therefore, it would not be appropriate to deem requirement (2) to have been satisfied at this time.

Regarding **requirement (3)**, the petition includes a statement of the last known address of the non-signing inventor.

Regarding **requirement (4)**, the declaration filed on 05 August 2008 is suitable for purposes of compliance with 37 CFR 1.47(a) and 37 CFR 1.497(a) and (b).

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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0 1 MAY 2009

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In re Application of	:	
Okada et al.	:	
Application No.: 11/887,586	:	DECISION
PCT No.: PCT/JP2005/021971	:	
Int. Filing Date: 30 November 2005	:	ON
Priority Date: 28 April 2005	:	
Attorney Docket No.: 134157	:	PETITION
For: Electrical Equipment	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 23 February 2009.

DISCUSSION

In a Decision mailed on 28 August 2008, the petition under 37 CFR 1.47(a) filed on 05 August 2008 was dismissed, without prejudice, because

> Regarding **requirement (2)**, counsel provides a "Declaration Under 37 CFR 1.47(a)" signed by Masakuni Kasugai, who describes the sending of parcels to non-signing inventor Ishikura on two separate dates, both of which he says were "duly returned" for the reason that "Mr. Masayuki Ishikura has moved from his last known address." However, petitioner does not recount any efforts undertaken to ascertain Mr. Ishikura's present whereabouts, after it was determined that he had moved. For instance, no evidence has been presented describing telephone directory searches, internet searches, voter registration searches, consultations with known associates, or other efforts made to determine the inventor's current address. Therefore, it would not be appropriate to deem requirement (2) to have been satisfied at this time.

In response, petitioner has provided a "Declaration Under 37 C.F.R. § 1.47(a)" signed by Masakuni Kasugai, who restates certain points made in his "Declaration" filed on 05 August 2008. In addition, Mr. Kasugai indicates that "I questioned employees who had worked with Mr. Masayuki Ishikura before Mr. Masayuki Ishikura's retirement as to whether they knew Mr. Masayuki Ishikura's forwarding address or other contact information on Feb. 12, 2009. However, none of the employees were able to provide Mr. Masayuki Ishikura's forwarding address or other contact information." Mr. Kasugai does not provide further details of the circumstances surrounding these inquiries (e.g., the names of the individuals asked, titles or positions held by those individuals, or the method, date and place of the inquiries). Petitioner also has not adequately demonstrated any other efforts which may have been undertaken to locate the non-signing inventor (such as internet or telephone directory searches, voter registration searches, etc.). *See* MPEP 409.03(d). Based on the evidence presented to date, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

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 8 SEP 2009

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ALEXANDRIA VA 22320-4850

In re Application of	:	
Okada et al.	:	
Application No.: 11/887,586	:	DECISION
PCT No.: PCT/JP2005/021971	:	
Int. Filing Date: 30 November 2005	:	ON
Priority Date: 28 April 2005	:	
Attorney Docket No.: 134157	:	PETITION
For: Electrical Equipment	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 01 September 2009.

DISCUSSION

In a Decision mailed on 01 May 2009, the petition under 37 CFR 1.47(a) filed on 23 February 2009 was dismissed, without prejudice, because

> ... petitioner has provided a "Declaration Under 37 C.F.R. § 1.47(a)" signed by Masakuni Kasugai, who restates certain points made in his "Declaration" filed on 05 August 2008. In addition, Mr. Kasugai indicates that "I questioned employees who had worked with Mr. Masayuki Ishikura before Mr. Masayuki Ishikura's retirement as to whether they knew Mr. Masayuki Ishikura's forwarding address or other contact information on Feb. 12, 2009. However, none of the employees were able to provide Mr. Masayuki Ishikura's forwarding address or other contact information." Mr. Kasugai does not provide further details of the circumstances surrounding these inquiries (e.g., the names of the individuals asked, titles or positions held by those individuals, or the method, date and place of the inquiries). Petitioner also has not adequately demonstrated any other efforts which may have been undertaken to locate the non-signing inventor (such as internet or telephone directory searches, voter registration searches, etc.). *See* MPEP 409.03(d). Based on the evidence presented to date, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

In response, petitioner has provided a further "Declaration Under 37 C.F.R. § 1.47(a)" signed by Masakuni Kasugai, who describes his further efforts undertaken to ascertain the whereabouts of the non-signing inventor. Mr. Kasugai explains why it is not feasible to perform telephone directory or voter registration searches under the circumstances presented. He states that he performed Google and Yahoo searches for Mr. Ishikura, and provides copies of the Japanese-language results. No English translation of these search results has been provided, put Mr. Kasugai has underlined the number of search results returned in each instance; these numbers correspond to those stated in the "Declaration..." Based on the totality of the evidence of record, it would be reasonable to conclude that the non-signing inventor could not be reached after a diligent search, as described by 37 CFR 1.47(a). As such, all of the requirements for relief 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 **05 August 2008** (the date the declaration was filed).

/George Dombroske/
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2 8 SEP 2009
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Masayuki Ishikura
Maison de Alvilla 210
1-33-9, Shinkoyasu, Kanagawa-ku,
Yokohama-shi, Kanagawa 221-0013
JAPAN

In re Application of
Okada et al.
Application No.: 11/887,586
PCT No.: PCT/JP2005/021971
Int. Filing Date: 30 November 2005
Priority Date: 28 April 2005
Attorney Docket No.: 134157
For: Electrical Equipment

Dear Mr. Ishikura:

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 (Masayuki ISHIKURA) 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/JP2005/021971 and was filed on November 30, 2005 in the names of Jun OKADA, Masayuki ISHIKURA, Jiro FUKUI and Masatoshi KOIKE for the invention entitled ELECTRICAL EQUIPMENT. The national stage application number is 11/887,586 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of August 5, 2008.

10 JUL 2009

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30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

In re Application of	:	
FUHRMANN et al.	:	
Application No.: 11/887,609	:	
PCT No.: PCT/EP2006/003193	:	
Int. Filing Date: 31 March 2006	:	DECISION
Priority Date: 01 April 2005	:	
Attorney Docket No.: 82734	:	
For: IMPROVED BISULFITE CONVERSION OF DNA	:	

This decision is in response to applicants' petition under 37 CFR 1.182 filed in the USPTO on 01 May 2009.

BACKGROUND

On 31 March 2006, applicants filed international application PCT/EP2006/003193 which designated the United States and claimed a priority date of 01 April 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 October 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 October 2007.

On 01 October 2007, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 19 November 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 April 2009, applicants filed a submission including, *inter alia*, a petition/fee for a three-month extension of time and a declaration of inventors.

On 01 May 2009, applicants submitted the instant petition under 37 CFR 1.182. The petition was accompanied by an affidavit of Ina Fuhrmann.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. The petition must include (1) the appropriate petition fee and (2) an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. MPEP § 605.04(c).

As to item (1), the petition fee has been paid.

With regard to item (2), the affidavit of Ina Fuhrmann is an affidavit setting forth both names (Ina Schwope and Ina Fuhrmann) and the procedure (marriage) whereby the change of name was effected. The affidavit is accepted.

Declaration of Inventors

The declaration of inventors filed 23 April 2009 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

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Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
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UNITED STATES PATENT AND TRADEMARK OFFICE

19 SEP 2008

Commissioner for Patents
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Schering-Plough Corporation
Patent Department (K-6-1, 1990)
2000 Galloping Hill Road
Kenilworth, NJ 07033-0530

In re Application of :
SEQUEIRA et al. :
App. No.: 11/887,642 : DECISION ON PETITION
PCT No.: PCT/US06/11924 : UNDER 37 CFR 1.10
Int. Filing Date: 30 March 2006 :
Priority Date: 30 March 2005 :
Attorney Docket No.: PD06268US01 :
For: PHARMACEUTICAL COMPOSITIONS

This decision is in response to applicants' "Petition under 37 CFR 1.10(d) to Correct Filing Date of Utility Application" filed 30 January 2008. No petition fee is required.

BACKGROUND

The application file includes a transmittal letter for entry into the national stage in the United States filed by applicants and date stamped as received in the United States Patent and Trademark Office on 27 September 2007, accompanied by, inter alia, the basic national fee, a copy of the international application; and an application data sheet.

On 30 January 2008, applicants filed present petition requesting that the filing date of the national stage papers be corrected from 27 September 2007 to 28 September 2007.

DISCUSSION

Applicants are requesting that the receipt date for the transmittal letter requesting immediate examination and the national stage application papers are corrected to indicate the correct date on which the transmittal letter for entry into the national stage in the United States and accompanying papers were filed, i.e., 28 September 2007. A copy of the Customer Copy of the "Express Mail" label No. EV532027003US filed with the petition bears a "Date In" date of 27 September 2007, however, the United States Postal Service stamp by the Newark Main Office in Newark, New Jersey, clearly bears a date of 28 September 2007. Therefore, a discrepancy exists under 37 CFR 1.10(d).

37 CFR 1.10(d) states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other

official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the 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 the USPS;

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

(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 "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 correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicants have satisfied all the requirements for a grantable petition. With respect to the showing required under item (3), applicants have provided a copy of the USPS payment receipt for this "Express Mail" envelope; this receipt is dated 28 September 2007. In addition, the USPS tracking database indicates that the USPS accepted this "Express Mail" envelope on 28 September 2007. Applicants' evidence is being accepted that the application was deposited in the "Express Mail Post Office to Addressee" service of the USPS on 28 September 2007. Accordingly, applicants' petition is accepted.

CONCLUSION

The Petition under 37 CFR 1.10(d) is **GRANTED** and the receipt date for transmittal letter and accompanying papers will be accorded a date of 28 September 2007.

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 oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
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13 APR 2009

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In re Application of	:	
CHO, Nam-Joon, et al.	:	
Application No.: 11/887,669	:	DECISION
PCT No.: PCT/US2206/012085	:	
Int. Filing Date: 29 March 2006	:	ON REQUEST UNDER
Priority Date: 29 March 2005	:	
Attorney's Docket No.: STAN-578	:	37 CFR 1.497(d)
For: METHOD OF FABRICATING LIPID BILAYER MEMBRANES ON SOLID SUPPORTS	:	

This decision is in response to request under 37 CFR 1.497(d), filed in the United States Patent and Trademark Office on 12 December 2008.

BACKGROUND

On 23 July 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 22 September 2008, applicants filed a declaration of the inventors and the surcharge.

On 16 October 2008, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration listed four inventors, but that the international application listed only two.

On 05 December 2008, applicants filed this request under 37 CFR 1.497(d).

DISCUSSION

Applicants file this request to add Jeffrey S. Clenn and Kwang Ho Cheong, as inventors.

A request under 37 CFR 1.497(d) requires: (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) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied.

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration is composed of three pages one and one page two. Each page one was separately executed. While it is acceptable for inventors to execute separate copies of the oath or declaration, each copy must list all of the inventors. Further, the complete copy of the declaration, as executed by the inventor, must be returned to the Office. It appears that at least three separate copies of the declaration were pieced together to create a singled composite declaration. An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) 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).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web, or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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Attorney Advisor
PCT Legal Administration

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19 JUN 2009

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In re Application of :
CHO, Nam-Joon, et al. :
Application No.: 11/887,669 : DECISION
PCT No.: PCT/US2006/012085 :
Int. Filing Date: 29 March 2006 : ON REQUEST UNDER
Priority Date: 29 March 2005 :
Attorney's Docket No.: STAN-578 : 37 CFR 1.497(d)
For: METHOD OF FABRICATING LIPID :
BILAYER MEMBRANES ON SOLID :
SUPPORTS :

This decision is in response to applicants' submission of a declaration, filed in the United States Patent and Trademark Office on 23 April 2009.

BACKGROUND

On 13 April 2009, the Office mailed Decision On Petition Under 37 CFR 1.497(d), granting applicant's request, but indicating that the declaration of the inventors did not comply with 37 CFR 1.497(a)-(b).

On 23 April 2009, applicants submitted a new declaration of the inventors.

DISCUSSION

The declaration submitted on 23 April 2009 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

This application is being forwarded 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 23 April 2009.

/Erin P. Thomson/

Erin P. Thomson
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12 DEC 2007

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EAST HARTFORD CT 06108

In re Application of WEN, Hongmei et al. Application No.: 11/887,680 PCT No.: PCT/US2005/039764 Int. Filing Date: 04 November 2005 Priority Date: 04 November 2004 Docket No.: PA-085.11605-US For: LUBRICANT ADDITIVE PACKAGES FOR IMPROVING LOAD-CARRYING CAPACITY AND SURFACE FATIGUE LIFE	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 02 October 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. 21-0279, 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 02 October 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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DATE 10-19-07 APPLICATION NUMBER 11/887,683

DOC CODE PET.DEC. ODPE DOC DATE 10-19-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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19 OCT 2007

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PRATT & WHITNEY
400 MAIN STREET
MAIL STOP: 132-13
EAST HARTFORD CT 06108

In re Application of WEN et al.
Application No.: 11/887,683
PCT No.: PCT/US05/39765
Int. Filing: 04 November 2005
Priority Date: 04 November 2004
Attorney Docket No.: PA-085.11698-US
For: MULTI FUNCTIONAL LUBRICANT ADDITIVE PACKAGE FOR A ROUGH MECHANICAL COMPONENT SURFACE

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 02 October 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" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $310 has been provided. The required petition fee of $1540 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. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **02 October 2007.**

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23 OCT 2007

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MAIL STOP: 132-13
EAST HARTFORD CT 06108

In re Application of:
WEN, Hongmei, et al.
U.S. Application No.: 11/887,684
PCT No.: PCT/US2005/039766
International Filing Date: 04 November 2005
Priority Date: 04 November 2004
Atty Docket No.: PA-085, 11679-US
For: MULTIFUNCTIONAL LUBRICANT ADDITIVE PACKAGE

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 02 October 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 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 applicant's 02 October 2007 submission to initiate the present national stage application included an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 21-0279 will be charged the $130 surcharge for filing the declaration 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 02 October 2007.

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In re Application of:
WEN *et al*
U.S. Application No.: 11/887,685
PCT No.: PCT/US2005/04384
Int. Filing Date: 02 December 2005
Priority Date: 06 December 2004
Attorney Docket No.: PA-085.11696-US
For: METHOD AND SYSTEM FOR DEVELOPING LUBRICANTS, . . .

DECISION

This decision is in response to applicants' petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 02 October 2007 which is hereby **GRANTED** as follows:

The basic national fee, search fee, examination 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. All requirements of 37 CFR 1.137(b) are satisfied.

A declaration of inventorship in compliance with 37 CFR 1.497(a) and (b) was provided. The $130.00 surcharge fee has been charged to Deposit Account No. 21-0279 as authorized.

This application is being forwarded to the Office of Patent Application Processing for the mailing of a Form PCT/DO/EO/903 and Filing Receipt.

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17 DEC 2008

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In re Application of
Holl et al.
Application No. 11/887,686
PCT No.: PCT/EP2006/003132
Int. Filing Date: 06 April 2006
Priority Date: 08 April 2005
Atty. Docket No.: RUF-07-1441
For: Electrochemical Element

DECISION

This is in response to the "Petition To Change Name Of Inventor" filed on 01 December 2008, which is being treated under 37 CFR 1.182.

BACKGROUND

This international application was filed on 06 April 2006, claimed an earliest priority date of 08 April 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 October 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 October 2007. Applicants filed, *inter alia*, the basic national fee on 02 October 2007.

On 30 September 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), observing that the "9th inventor Linda ANDERSSON as published, signed on the declaration as Linda ROBINSON. Form PCT/IB306 is needed of such a change."

DISCUSSION

Inspection of the declaration filed on 06 February 2007 reveals that the document signed by Linda Robinson has been altered to nominate her as "Linda Robinson," while the published international application nominates "ANDERSSON, Linda" instead. 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.*

Since the change described above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition (and fee) under 37 CFR 1.182 is required. Petitioner has filed a petition (and $130.00 fee) which are being treated under 37 CFR 1.182. The $270.00 balance of the petition fee is being charged to counsel's Deposit Account 50-2719, per the authorization included in the petition.

Said petition is accompanied by an "Extract of the Population Register" of the "Swedish Tax agency" which appears to reflect a change in the name of a certain Linda Robinson. However, such a petition should be accompanied by a statement made on the basis of first-hand knowledge (e.g., by the inventor concerned) attesting to the fact of the name change and to the identity of the person nominated in the published international application as compared with that of the inventor executing the declaration document.

It is also noted that the 8th page of the declaration package filed on 06 March 2008 includes several un-initialed alterations (such as the change to the name Robinson and the name of Mr. Hennerdal). In view of these un-initialed alterations, it would not be appropriate to accept the declaration at this time.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, 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.

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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In re Application of :
Holl et al. :
Application No. 11/887,686 :
PCT No.: PCT/EP2006/003132 :
Int. Filing Date: 06 April 2006 : DECISION
Priority Date: 08 April 2005 :
Atty. Docket No.: RUF-07-1441 :
For: Electrochemical Element :

This is in response to the renewed petition under 37 CFR 1.182 filed on 17 February 2009.

DISCUSSION

In a Decision mailed on 17 December 2008, the petition filed on 01 December 2008 was treated under 37 CFR 1.182 and dismissed, without prejudice. The petition was dismissed because

> Said petition is accompanied by an "Extract of the Population Register" of the "Swedish Tax agency" which appears to reflect a change in the name of a certain Linda Robinson. However, such a petition should be accompanied by a statement made on the basis of first-hand knowledge (e.g., by the inventor concerned) attesting to the fact of the name change and to the identity of the person nominated in the published international application as compared with that of the inventor executing the declaration document.
>
> It is also noted that the 8th page of the declaration package filed on 06 March 2008 includes several un-initialed alterations (such as the change to the name Robinson and the name of Mr. Hennerdal). In view of these un-initialed alterations, it would not be appropriate to accept the declaration at this time.

In response, petitioner has provided a signed "Statement of Inventor Linda Robinson," who states (in part) that "the inventor listed as Linda Andersson in International Application No. PCT/EP2006/003132 and I are the same person. My name changed in the intervening time period from Linda Andersson to Linda Robinson and I, therefore, now am properly listed as an inventor as Linda Robinson in the above-identified application..." In view of this Statement, it would be appropriate to accept the inventor's name as it appears in the Declaration.

With respect to the other defect in the declaration filed on 06 March 2008, namely the un-initialed alterations, petitioner has provided a copy of page 8 of the declaration on which certain alterations have been initialed. However, standing alone, this document is not an acceptable declaration because it does not name the entire inventive entity. Moreover, the document was altered after it was signed. As explained at MPEP 602.01, "The wording of an

oath or declaration cannot be amended, altered or changed in any manner after it has been signed." Therefore, it would not be appropriate to accept the declaration as filed on 17 February 2009, or to accept the sheet signed on 17 February 2009 as a supplement to the declaration filed on 06 March 2008.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, 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.

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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7 JUL 2009

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In re Application of :
Holl et al. :
Application No. 11/887,686 :
PCT No.: PCT/EP2006/003132 :
Int. Filing Date: 06 April 2006 : DECISION
Priority Date: 08 April 2005 :
Atty. Docket No.: RUF-07-1441 :
For: Electrochemical Element :

This is in response to the renewed petition under 37 CFR 1.182 filed on 01 May 2009.

DISCUSSION

In a Decision mailed on 05 March 2009, the renewed petition filed on 17 February 2009 was dismissed, without prejudice. The petition was dismissed because

> In response, petitioner has provided a signed "Statement of Inventor Linda Robinson," who states (in part) that "the inventor listed as Linda Andersson in International Application No. PCT/EP2006/003132 and I are the same person. My name changed in the intervening time period from Linda Andersson to Linda Robinson and I, therefore, now am properly listed as an inventor as Linda Robinson in the above-identified application..." In view of this Statement, it would be appropriate to accept the inventor's name as it appears in the Declaration.
>
> With respect to the other defect in the declaration filed on 06 March 2008, namely the un-initialed alterations, petitioner has provided a copy of page 8 of the declaration on which certain alterations have been initialed. However, standing alone, this document is not an acceptable declaration because it does not name the entire inventive entity. Moreover, the document was altered after it was signed. As explained at MPEP 602.01, "The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed." Therefore, it would not be appropriate to accept the declaration as filed on 17 February 2009, or to accept the sheet signed on 17 February 2009 as a supplement to the declaration filed on 06 March 2008.

In response, petitioner has provided a four-sheet declaration document, and explains that

> *various changes were made at the time of signature. Those changes included, for example, the address of Inventor Steffan Nordlinder, the name of Linda Robinson and the address of Linda Robinson. Thus, the changes to the document and the signature were contemporaneous.*

The subsequent activity on the document was the initialing of that document which was made at the request of the PCT Legal Examiner. However, it should be noted that the actual alterations to the document were not made at the time of those initials, but that the alterations were made at the time of execution of the document.

Petitioner is advised, respectfully, that the addition of the initials after the document was originally signed constitutes an "amendment, alteration or change" to the declaration after it was signed. Thus, even in view of petitioner's statement that the other changes to the declaration were contemporaneous with its signature, the later initialing was not contemporaneous. Therefore, it would not be appropriate to accept the declaration as filed on 01 May 2009.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

A proper response (i.e., an acceptable declaration) must be filed within the later of EITHER (1) the remaining period for response to the Decision mailed on 05 March 2009 (as extended under 37 CFR 1.136(a)) OR (2) **ONE (1) MONTH** from the mail date of this decision (NOT extendable under 37 CFR 1.136(a)). This period for response is analogous to that which would be set by a Notification of Defective Response (Form PCT/DO/EO/916). Failure to timely reply will result in **ABANDONMENT** of this application.

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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17 SEP 2009

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In re Application of	:	
Holl et al.	:	
Application No. 11/887,686	:	
PCT No.: PCT/EP2006/003132	:	
Int. Filing Date: 06 April 2006	:	DECISION
Priority Date: 08 April 2005	:	
Atty. Docket No.: RUF-07-1441	:	
For: Electrochemical Element	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 04 August 2009.

DISCUSSION

In a Decision mailed on 07 July 2009, the renewed petition under 37 CFR 1.182 filed on 01 May 2009 was dismissed, without prejudice, because the declaration included alterations which were not initialed contemporaneously with its execution.

In response, petitioner has submitted a new declaration executed by the "Swedish group" of inventors, including Linda Robinson. This declaration is free of un-initialed alterations. However, comparison of the name of inventor HENNERDAL, Lars-Olof nominated in the published international application with the corresponding name in the new declaration reveals that the spelling has been changed to "Lars-Olov Hennerdal." Petitioner is required to explain this spelling change on the record; e.g., did the discrepancy arise from a mere typographical error or phonetic misspelling of the inventor's name? Without an acceptable explanation of this discrepancy, it would not be appropriate to accept the declaration under 37 CFR 1.182 at this time.

DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, 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.

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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- 7 DEC 2009

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In re Application of	:	
Holl et al.	:	
Application No. 11/887,686	:	
PCT No.: PCT/EP2006/003132	:	
Int. Filing Date: 06 April 2006	:	DECISION
Priority Date: 08 April 2005	:	
Atty. Docket No.: RUF-07-1441	:	
For: Electrochemical Element	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 23 October 2009.

DISCUSSION

In a Decision mailed on 17 September 2009, the renewed petition under 37 CFR 1.182 filed on 04 August 2009 was dismissed, without prejudice, because

> comparison of the name of inventor HENNERDAL, Lars-Olof nominated in the published international application with the corresponding name in the new declaration reveals that the spelling has been changed to "Lars-Olov Hennerdal." Petitioner is required to explain this spelling change on the record; e.g., did the discrepancy arise from a mere typographical error or phonetic misspelling of the inventor's name? Without an acceptable explanation of this discrepancy, it would not be appropriate to accept the declaration under 37 CFR 1.182 at this time.

In response, petitioner states that the discrepancy in the spelling of Mr. Hennerdal's name arose as a mere typographical error. In view of the policy described at MPEP 605.04(b), it would be appropriate to accept this statement. Accordingly, the declaration filed on 04 August 2009 is being accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

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 August 2009**.

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In re Application of	:	DECISION ON
KOITABASHI et al	:	
Application No.: 11/887,691	:	
PCT No.: PCT/JP2006/306507	:	
Int. Filing Date: 29 March 2006	:	PETITION UNDER
Priority Date: 01 April 2005	:	
Attorney's Docket No.: 22PUS	:	
For: Scroll Fluid Machine	:	37 CFR 1.10 (c)

This decision is in response to applicants' "PETITION TO CORRECT FILING DATE," filed 27 October 2008, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date is 01 October 2007 for the national stage submission for the above identified application and not what is stamped by the USPTO on the return postcard as 02 October 2007. No fee is required for this petition.

BACKGROUND

On 01 October 2007, petitioner purportedly 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), and an executed declaration.

On 27 October 2008, applicants filed the present petition stating that the application was in fact deposited with the USPS on October 1, 2007 as evidenced by the "Express Mail" label indicating a date of October 1, 2007 and not what is stamped on the USPTO return postcard of 02 October 2007.

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). A review of the application papers reveals that "Express Mail" Label No. EM076637605US was placed on the "Return Postcard" and the USPTO transmittal letter (PTO-1390) prior to the original mailing by "Express Mail." CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. EM076637605US filed with the present petition identifies the day of deposit in the "Date In" box, as "01 October 2007." 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **01 October 2007.**

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In re Application of :
ROOYMANS, Johannus, Otto :
U.S. Application No.: 11/887,696 :
PCT No.: PCT/NL2006/050069 :
Int. Filing Date: 03 April 2006 :
Priority Date: 01 April 2005 :
Docket No.: 04649.0007.PCUS00 :
For: REACTIVE CIRCUIT AND RECTIFIER CIRCUIT :

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) filed on 07 July 2009 is hereby **GRANTED** as follows:

The appropriate fees and the petition fee for a small entity have been paid. Applicant made 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.

James Thomson
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14 NOV 2007

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In re Application of: Wen, Hongmei	:	DECISION
Application No.: 11/887699	:	
PCT Application No.: PCT/US05/39763	:	ON PETITION
Int. Filing Date: 04 November 2005	:	
Priority Date: 04 November 2004	:	UNDER
Atty Docket No.: PA-085.11697-US	:	
For: LUBRICANTS CONTAINING MULTIFUNCTIONAL ADDITIVE PACKAGES THEREIN FOR IMPROVING LOAD-CARRYING CAPACITY, INCREASING SURFACE FATIGUE LIFE AND REDUCING FRICTION		37 CFR 1.137(b)

Applicant's "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR §1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 02 October 2007 is **GRANTED**.

BACKGROUND

On 04 November 2005, applicant filed international application PCT/US05/39763. This international application claims a priority date from US Provisional Application 60625416 of 11 April 2004 and designates the United States. The deadline for entry into the United States National Stage was thirty months from this priority date, that is 11 October 2006. Applicant missed the deadline by failing to pay the appropriate national fee and the application became abandoned at midnight 11 October 2006.

On 02 October 2007, applicant filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter requesting entry into the national phase under 35 U.S.C. 371, a check for the requisite national stage fee as required by 35 U.S.C. 371(c)(1), a declaration of the inventor as required by 35 U.S.C. 371(c)(4), and the petition fee as required by 37 CFR 1.17(m).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (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 was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "The entire delay in filing the required reply from the due date for the required reply, until the filing of the grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 11 April 2005 under 35 U.S.C. 363 and a date of **02 October 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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26 NOV 2007

In re Application of :
Marcon et al. :
Application No.: 11/887,776 : DECISION
PCT No.: PCT/EP06/02479 :
Int. Filing Date: 17 March 2006 : ON
Earliest Priority Date: 24 March 2005 :
Attorney Docket No.: 2546-1048 : PETITION
For: Method For Recognition Between A First Object :
And A Second Object Each Represented By Images :

The petition to revive under 37 CFR 1.137(b) filed on 03 October 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 reply until the filing of a grantable petition pursuant to 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 has been paid. 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 Office of Patent Application Processing for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **03 October 2007**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

1 3 DEC 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Luben Stoilov
100 Marin Center Dr., #24
San Rafael CA 94903

In re Application of	:	
STOILOV, Georgi Dimov et al.	:	
Application No.: 11/887,810	:	DECISION ON
PCT No.: PCT/BG2004/000023	:	
Int. Filing Date: 02 December 2004	:	PETITION
Priority Date: 23 August 2004	:	
Attorney Docket No.: None	:	UNDER 37 CFR 1.137(a)
For: A MOMENTARY POWER MARKET	:	

This decision is in response to applicants' petition to revive the application for unavoidable abandonment on 03 October 2007.

BACKGROUND

On 02 December 2004, applicant filed international application PCT/BG2004/000023, claiming a priority date of 23 August 2004. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 March 2006. The thirty month period for paying the basic national fee in the United States expired on 23 February 2007.

On 03 October 2007, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee and this petition to revive under 37 CFR 1.137(a).

DISCUSSION

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicant has paid the basic national fee and the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. The deadline for payment of the basic national fee in the United States is 30 months from the priority date. Applicants were aware of when they filed their priority application and knew the international application's number. This was enough to have filed the basic national fee in a timely manner. Further, the international search report was available on the WIPO website, since it published. It is unclear what applicants are claiming that they required that they did not have from the International Bureau for the timely filing a national phase entry.

Applicants may wish to consider filing a petition under 37 CFR 1.137(b) for unintentional delay.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

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 are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)".

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

28 JUL 2008

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Luben Stoilov
100 Marin Center Dr., #24
San Rafael CA 94903

In re Application of	:	
STOILOV, Georgi Dimov et al.	:	
Application No.: 11/887,810	:	DECISION ON
PCT No.: PCT/BG2004/000023	:	
Int. Filing Date: 02 December 2004	:	PETITION
Priority Date: 23 August 2004	:	
Attorney Docket No.: None	:	UNDER 37 CFR 1.137(b)
For: A MOMENTARY POWER MARKET	:	

Applicant's Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 27 May 2008 is **GRANTED**.

Applicant 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, 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.

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee, and fee has not yet been paid. Applicants also owe both the search fee and examination fee.

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, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), the search fee, the examination fee and the surcharge 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/887,817		Hiroaki Kataoka	134197	6796

25944 7590 03/04/2008

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
03/04/2008	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

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FROM DIRECTORS OFFICE

MAR 0 4 2008

TECHNOLOGY CENTER 3600

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of
Hiroaki Kataoka
Application No. 11/887,817
Filed: October 3, 2007
For: VEHICLE DEVIATION PREVENTING CONTROL 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) pilot program and the petition under 37 CFR 1.102(d), filed January 2, 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:

(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. application publications.

The Decision to Grant a Patent issued by the JPO cites eight JPO documents under the heading of "Reference Patent Documents". Although an IDS was filed in the instant application on October 4, 2007, two of the references cited by the JPO examiner, i.e. JP 2004-070383,A (JP,A) and JP 2005-242483,A (JP,A) were not provided. No other IDS is of record.

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: 03/01/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/887,817		Hiroaki Kataoka	134197	6796

25944 7590 03/26/2008

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EXAMINER	
ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
03/26/2008	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 25 2008

TECHNOLOGY CENTER 3600

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Hiroaki Kataoka Application No. 11/887,817 Filed: October 3, 2007 For: VEHICLE DEVIATION PREVENTING CONTROL 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) pilot program and the renewed petition under 37 CFR 1.102(d), filed March 10, 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

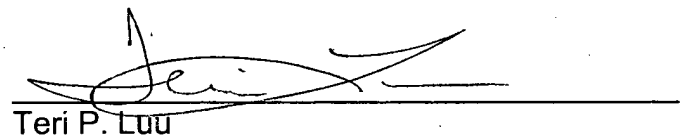
(7) The required petition fee under 37 CFR 1.17(h).

In light of the IDS filed March 10, 2008, the request to participate in the PPH Pilot program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

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.

The application is currently undergoing preexam processing. Once it is released to the Technology Center, it will be docketed and forwarded to the examiner for action on the merits commensurate with this decision.



Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 03/18/08

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P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Hiroaki **KATAOKA, et al.** :
Application No. 11/887,817 : DECISION GRANTING PETITION
Filed: October 4, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **134197** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 3, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 27, 2009cannot 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 2612 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.
11/887,830	10/04/2007	Makoto Iwashima	040302-0708	6956

7590 09/11/2009

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

EXAMINER	
ART UNIT	PAPER NUMBER
2121	
MAIL DATE	DELIVERY MODE
09/11/2009	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

28 MAR 2008

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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Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of
Rokos
Application No. 11/887,836
PCT No.: PCT/GB2005/004002
Int. Filing Date: 17 October 2005
Priority Date: 05 April 2005
Atty. Docket No.: 3005-1037
For: Tuning Control Arrangement

DECISION

This is in response to the correspondence filed on 04 January 2008.

BACKGROUND

This international application was filed on 17 October 2005, claimed an earlier priority date of 05 April 2005, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 12 October 2006. The 30 month time period for paying the basic national fee in the United States expired at midnight on 05 October 2007. Applicant filed correspondence accompanied by, *inter alia*, the basic national fee on 04 October 2007.

DISCUSSION

Applicant requests "that the U.S. PTO issue a U.S. Application Serial Number and an Official Filing Receipt be recorded and returned to us in due course." The requested application number appears above, and processing of this application will continue.

Applicant is advised that the instant correspondence, including the "copies of the Transmittal Letter and Application Data Sheet of the above-identified application, filed on October 4, 2007," were stamped with a new application number, 11/988,327, upon receipt by the USPTO. However, the correct application number remains 11/887,836.

CONCLUSION

Applicant's request for assignment of an application number is **GRANTED** to the extent discussed above. This application is being forwarded to the Office of Patent Application Processing for continued processing, with a date under 35 U.S.C. 371(c)(1), (2) and (4) of **04 October 2007**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

0 3 DEC 2007

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30542
FOLEY & LARDNER LLP
P.O. Box 80278
San Diego, CA 92138-0278

In re Application of:
FRYE *et al*
U.S. Application No.: 11/887,845
PCT No.: PCT/GB2006/000796
Int. Filing Date: 03 March 2006
Priority Date: 04 March 2005
Attorney Docket No.: 091054-0204
For: METHYL TRANSFERASES AND THEIR USES

DECISION

This decision is in response to applicants' petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 03 October 2007 which is hereby **GRANTED** as follows:

The basic national fee, search fee, examination fee, surcharge 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.

An oath/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 requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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P.O. Box 1450
Alexandria, VA 22313-1450
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01 APR 2008

24972
FULBRIGHT & JAWORSKI, LLP
666 Fifth Ave
New York NY 10103-3198

In re Application of
SEO *et al*
U.S. Application No.: 11/887,865
PCT No.: PCT/KR2006/001281
Int. Filing Date: 07 April 2006
Priority Date: 09 April 2005
Docket No.: NY-TECHVIL-244-US
For: SEAT AIR CONDITIONER FOR VEHICLE

DECISION

This decision is in response to applicants' "Petition Under Rule 1.182" filed on 09 January 2008.

BACKGROUND

On 07 April 2006, applicants filed international application PCT/KR2006/001281 claiming priority to Korean patent application 10-2005-0029703 filed 09 April 2005.

On 04 October 2007, applicants filed papers to enter the national stage of PCT/KR2006/001281 in the United States.

On 09 January 2008, applicants filed the subject petition which was accompanied by, *inter alia*, certified copies of (with accompanying verified English translations) of Korean patent application 10-2005-0029703 and Korean patent application 10-2005-0029705, both filed 09 April 2005.

DISCUSSION

Applicants claim that an error occurred in the underlying international application, PCT/KR2006/001281, whereby the priority document was erroneously identified as Korean patent application 10-2005-0029703 rather than Korean patent application 10-2005-0029705.

A review of the evidence submitted shows that Korean patent application 10-2005-0029703 listed in the international publication ("WO 2006/109959") is not for the subject application. Korean patent application 10-2005-0029703 pertains to a temperature control switch for a car air conditioner. On the other hand, Korean patent application 10-2005-0029705 relates to a seat air conditioner for a vehicle which

corresponds to the subject national stage application.

As such, it is clear that a typographical error occurred with the priority claim upon filing the underlying international application. This petition is being treated under 37 CFR 1.182. The typographical error has been corrected in the U.S. national phase of PCT/KR2006/001281. The $400.00 petition fee has been charged to Deposit Account No. 50-0624 as authorized.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.182 is **GRANTED**.

The priority application has been changed from Korean patent application 10-2005-0029703 filed 09 April 2005 to Korean patent application 10-2005-0029705 also filed 09 April 2005.

This application is being forwarded to the Office of Patent Application Processing for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/887,882	01/21/2009	Shinji Nakamura	SONYJP 3.3-576	8852

7590 09/10/2009

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER	
ART UNIT	PAPER NUMBER
2614	
MAIL DATE	DELIVERY MODE
09/10/2009	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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

27 MAR 2008

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Teresa Stanek Rea
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of:		
Jean-Francois BERRET et al	:	DECISION ON
U. S. Application No.: 11/887,906	:	PETITION
PCT Application No.: PCT/FR06/00018	:	UNDER
Int. Filing Date: 05 January 2006	:	37 CFR 1.137(b)
Priority Date: 07 January 2005	:	
For: AQUEOUS PAINT COMPOSITIONS COMPRISING A COLLOIDAL DISPERSION OR CERIUM	:	

Applicant's "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR §1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 04 October 2007 is **GRANTED**.

BACKGROUND

On 05 January 2006, applicant filed international application PCT/FR06/00018. The international application designates the United States. The deadline for paying the basic national fee for the United States National Stage was 07 July 2007 which is thirty months from the priority date of 07 January 2005. Applicant missed the deadline by failing to pay the appropriate national fee and the application became abandoned at midnight 07 July 2005.

On 04 October 2007, applicant filed the instant petition for revival accompanied by, *inter alia*, the basic national fee, the petition fee under 37 C.F.R. 1.17(m) and, a statement that the entire delay was unintentional.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (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 was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "The entire delay in filing the required reply from the due date for the required reply, until the filing of the grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 05 January 2006 under 35 U.S.C. 363. The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Cathy Lam
Detailee
Office PCT Legal Administration

Telephone: (571) 272-6095

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Washington, DC 20037-3213

JAN 3 0 2008

In re Application of	:	DECISION ON REQUEST TO
Tadashi HIRAIWA, et al	:	PARTICIPATE IN PATENT
Application No. 11/887910	:	PROSECUTION HIGHWAY
Filed: October 4, 2007	:	PILOT PROGRAM AND PETITION
Attorney Docket No. Q87405	:	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 December 28, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kathryn Gorgos
TQAS TC 1700

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

25 OCT 2007

Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

In re Application of	:	
BERG, et al.	:	
U.S. Application No.: 11/887,977	:	DECISION ON PETITION
PCT No.: PCT/GB05/02675	:	
Int. Filing Date: 07 July 2005	:	UNDER 37 CFR 1.137(b)
Priority Date: 07 July 2004	:	
Attorney Docket No.: 674509-2081	:	
For: POLYPEPTIDE	:	

The petition to revive under 37 CFR 1.137(b) filed 05 October 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in entering National Phase in the United States within 30 months from the earliest priority date was unintentional" in conjunction with the declaration of Tanja la Cour explaining the error in not providing instructions to counsel to enter the United States 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 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 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 a compliant, 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

16 SEP 2009

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Sabic Americas, Inc.
1600 Industrial Blvd.
Sugar Land, TX 77478

I re Application of :
MAMADOV et al. :
Application No.: 11/887,992 : DECISION ON PETITION
PCT No.: PCT/EA2006/000003 :
Int. Filing Date: 06 April 2006 :
Priority Date: 06 April 2005 :
Attorney Docket No.: 10121-US-PCT :
For: METHOD FOR SELECTIVE HYDROGENATION OF ACETYLENE TO ETHYLENE

This decision is issued in response to applicants' "Information for Withdrawal of Abandonment" filed 03 September 2009 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 April 2006, applicants filed international application PCT/EA2006/000003 which claimed a priority date of 06 April 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 06 October 2007.

On 05 October 2007, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 24 November 2008, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 25 August 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 24 November 2008 within the time period set therein.

On 03 September 2009, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and a post card receipt dated 12 January 2009.

DISCUSSION

Applicants state in their present petition that a declaration was received at the United States Patent and Trademark Office on 12 January 2009. A review of the present application reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the application number, title of invention, and attorney docket number. The receipt itemizes, among other things, a declaration. The receipt is stamped "Rec'd PCT 12 JAN 2009" across its face is sufficient to indicate that the above item was in fact received in the Office on 12 January 2009.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

In view of the declaration filed 12 January 2009, the Notification of Abandonment (Form PCT/DO/EO/909) dated 25 August 2009 is hereby VACATED.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony R

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OCT 1 1 2007

OFFICE OF PETITIONS

In re Application of

Leonard Smalley
Application No. 11/888,053
Filed: July 31, 2007
Attorney Docket No. 1780-2

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 31, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant declaring 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 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 3711 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/888,059	07/30/2007	Nicholas M. Sampas	10060629-1	3555

7590 11/27/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
RIGGS II, LARRY D	
ART UNIT	**PAPER NUMBER**
1631	
NOTIFICATION DATE	**DELIVERY MODE**
11/27/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

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.
11/888,063	07/30/2007	Aaron Louis Hinni	23441	3549

7590 02/13/2008

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 61538
DENVER, CO 80206-8538

EXAMINER	
ART UNIT	PAPER NUMBER
2153	
MAIL DATE	DELIVERY MODE
02/13/2008	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: 02/14/2008 KKING1
08/01/2007 EHAILE1 00000045 11888063
02 FC:2111 -250.00 OP
04 FC:2201 -500.00 OP
05 FC:2202 -325.00 OP

Refund Ref:
02/14/2008 0030050568

Credit Card Refund Total: $1075.00

Am Exp..: XXXXXXXXXXX1007

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/888,064	07/30/2007	Aaron Louis Hinni	23552	3557

7590 02/13/2008

THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 61538
DENVER, CO 80206-8538

EXAMINER	
KOONTZ, TAMMY J	

ART UNIT	PAPER NUMBER
3974	

MAIL DATE	DELIVERY MODE
02/13/2008	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

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Adjustment date: 02/14/2008  KKING1
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02 FC:2111                    -250.00 OP
04 FC:2201                    -400.00 OP
05 FC:2202                     -25.00 OP


Refund Ref:
02/14/2008          0030050566
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Credit Card Refund Total:      $675.00

Am Exp..: XXXXXXXXXXX1007
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TRIANGLE PATENTS, PLLC
P.O. BOX 28539
RALEIGH, NC 27611-8539

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OFFICE OF PETITIONS

In re Application of
Charles Rodney Starrett
Application No. 11/888,097
Filed: July 31, 2007
Attorney Docket No. 4010-011

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 9, 2009.

The request is **APPROVED**.

The request was signed by JiNan Glasgow on behalf of the practitioners who are associated with Customer No. 64843.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Charles Rodney Starrett
109 Churchview Street
Cary, NC 27513

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/888,097	07/31/2007	Charles Rodney Starrett	4010-011

CONFIRMATION NO. 3835

64843
TRIANGLE PATENTS, P.L.L.C.
P.O. BOX 28539
RALEIGH, NC 27611-8539

POWER OF ATTORNEY NOTICE

OC000000039190587

Date Mailed: 12/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2009.

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

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/888,097	07/31/2007	Charles Rodney Starrett	4010-011

CONFIRMATION NO. 3835

POA ACCEPTANCE LETTER

Charles Rodney Starrett
109 Churchview Street
Cary, NC 27513

Date Mailed: 12/14/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/09/2009.

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

/idingle/

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

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TECHNOLOGY CENTER 3600

Dergosits & Noah LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

In re Application of:
Benjamin Garfinkle
Serial No.: 11/888,108
Filed: July 31, 2007
Docket: 535.14
Title: SIGN HOLDER DEVICE

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

This is a decision on the petition filed on July 31, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically as required at 2 above. It appears that the petition was filed under the criteria that was in effect before the change to practice for petitions to make special as indicated above. Petitioner is referred to the notice published in the Federal Register mentioned above.

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

Any inquiry regarding this decision should be directed to Kenneth J. Dorner at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

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Commissioner for Patents
United States Patent and Trademark Office
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Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh PA 15213

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OFFICE OF PETITIONS

In re Application of :
Kazar, et al. :
Application No. 11/888,166 : ON PETITION
Filed: July 31, 2007 :
Attorney Docket No. SPIN-5 CONT

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed April 11, 2008, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on July 12, 2008. A Notice of Abandonment was mailed on August 8, 2008.

The issue fee payment, publication fee, and Form PTOL-85b were received on September 8, 2008.

The file is now being forwarded 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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United States Patent and Trademark Office
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Andrei Sergeevich Bureiko	: DECISION ON REQUEST FOR
Patent Number	: 7597719	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/888,173	: 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 **50** 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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LAHIVE & COCKFIELD, LLP/THE MATHWORKS
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109-2127

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OFFICE OF PETITIONS

In re Application of :
David A. Foti :
Application No. 11/888,193 : DECISION ON PETITION
Filed: July 30, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. MWS-260-A :

This is a decision on the petition, filed September 19, 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).

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 12, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 19, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

This application is being forwarded to Technology Center Art Unit 2193 for examination in due course.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/888,193	07/30/2007	David A. Foti	MWS-260A

CONFIRMATION NO. 4034

74321
LAHIVE & COCKFIELD, LLP/THE MATHWORKS
FLOOR 30, SUITE 3000
One Post Office Square
Boston, MA 02109-2127

NONPUBLICATION RESCISSION LETTER

OC000000033596563

Date Mailed: 12/12/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 03/19/2009.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/amwise/

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

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Lesavich High-Tech Law Group, P.C.
Suite 325
39 S. LaSalle Street
Chicago, IL 60603

Mail Date: 04/21/2010

Applicant	: William E. Carner	: DECISION ON REQUEST FOR
Patent Number	: 7626062	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/888,217	: 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 **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTOR'S OFFICE

SEP 18 2007

TECHNOLOGY CENTER 3600

Law Offices of Andrew Y. Schroeder
500 South Broadway
Suite 222
Santa Maria, CA 93454

In re Application of:
Gloria Woods
Serial No.: 11/888,223
Filed: July 30, 2007
Docket:1SQGW040

Title: DECORATIVE AND PROTECTIVE COVERING FOR THE VANES AND VALANCES OF BLIND SYSTEMS

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

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

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

REGULATION AND PRACTICE

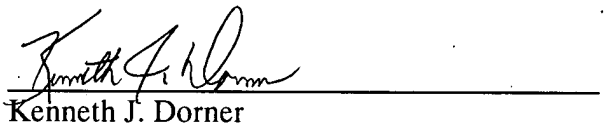
To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically as required at 2 above. It appears that the petition was filed under the criteria that was in effect before the change to practice for petitions to make special as indicated above. Petitioner is referred to the notice published in the Federal Register mentioned above.

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

Any inquiry regarding this decision should be directed to Kenneth J. Dorner at (571) 272-6587.



Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF ANDREW Y. SCHROEDER
500 SOUTH BROADWAY, SUITE 222
SANTA MARIA CA 93454

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :

WOODS, et al. :
Application No. 11/888,224 : DECISION ON PETITION
Filed: July 30, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **1SQLW041** : 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

The instant petition does not include evidence such as a doctor's certificate or other medical certificate showing that the state of health of Mr. Logan Woods is such that he might not be available to assist in the prosecution of the application if it were to run its normal course.

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).

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3643 for action in its regular turn.

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
www.uspto.gov

In re Application of
Dwipen N. Ghosh

Application No. 11888234

Filed: July 31,2007

Attorney Docket No. USPA-0375

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 28-AUG-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr : 12-07

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DEC 17 2007

OFFICE OF PETITIONS

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

In re Application of	:	
Thomas	:	
Application No. 11/888,248	:	DECISION
Filed: 31 July, 2007	:	
Attorney Docket No. 1363-039	:	

This is a decision on the petition filed on 31 July, 2007, under 37 C.F.R. §1.47(b).

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

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

NOTES:

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

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

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

BACKGROUND

The record indicates:

- the instant application was filed on 31 July, 2007, without, *inter alia*, a fully executed oath/declaration;

- the Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the instant petition was submitted on filing of the application on 31 July, 2007;

- thus, on 31 July, 2007, Petitioner Michael T. Sanderson (Reg. No. 43,082) filed, *inter alia*, the instant petition (three pages, with averment of irreparable harm at page one of the petition) and fee, an employment agreement (five pages including Exhibit A cover), an oath/declaration (two pages) that is not signed by anyone, and an averment of contact with the non-signing inventor Kasman E. Thomas (Mr. Thomas) and his refusal to sign as averred by Amy Cottle (Ms. Cottle) (four pages including Exhibit B cover), a paralegal for the assignee, and Petitioner (five pages with Exhibit C cover), all alleged to be supported by copies of Emails between Ms. Cottle or Petitioner and Mr. Thomas (three sets of documents each of two pages including the respective Exhibit D, E and G covers) and a fourth document, a communication between Ms. Cottle and Petitioner (three pages including Exhibit F cover).

What is clear from the outset, is that the petition fails to satisfy statutory, regulatory and policy requirements in that the oath/declaration appears to be unsigned and is absent the certificate under 37 C.F.R. §3.73(b)—this failure alone requires dismissal.

However, equally important is the fact that there is no evidence of the transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor. Petitioner attempts to circumvent this requirement with an averment that Mr. Thomas refused to participate in the application, and this refusal is averred to be exhibited by his message (Exhibit D) dated "5/2/2007 9:06 AM," However, this communication occurs nearly three months before the application was filed, and it is directed to the assignee paralegal (stating that the assignee must tell him how it intends to restore value to Mr. Thomas's restricted shares (stock)).

In connection with the matter of the requirement for transmittal of the application to Mr. Thomas, the assignee paralegal clearly does not mean in her undated and redacted Email message (quoted in a later message dated 4/25/07, Exhibit E) the same thing by the term "disclosure" as is meant by the term "application," in that her Email message (Exhibit F) dated "3/1/.2007 12:09 pm" uses the term "disclosure" to describe materials she sends to Petitioner for him "to be used in preparation of a patent application"—rather than the application itself. (Emphasis supplied.)

Petitioner has suggested in conversation with the Office that refusal of the Office to grant the existing petition would be in conflict with other Office action—in fact one of the "related" application cited by Petitioner involves an application by a joint (signing) inventor under 37 C.F.R. §1.47(a), and, as indicated earlier, in the instant application the petition under 37 C.F.R. §1.47(b) must fail for absence of the required signed oath/declaration and showing under 37 C.F.R. §3.73(b).

Should Petitioner renew the instant petition, a copy of the transmittal letter accompanying the entire application (description, claims, abstract and drawings)—transmitted by the U.S. Postal Service (USPS) or private courier—must accompany the petition.

Additionally, Petitioner also must demonstrate the due diligence required to ascertain an address to be used/supplied for the non-signing inventor (i.e., a residence address) is current or at the very least the most reasonably believed to be last known address for the non-signing inventor.

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

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

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

See specifically, the regulations at 37 C.F.R. §10.18.

* * *

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. Petitioner is directed to the commentary at MPEP §409.03(d), which provides in pertinent part:

> 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.

Further, the guidance in the Commentary at MPEP §409.03(b)(A) and (B) provide in pertinent part:

> ***
>
> In addition to other requirements of law (35 U.S.C. §§111(a) and 115), an application deposited pursuant to 37 C.F.R. §1.47(b) must meet the following requirements:
>
> (A)The 37 C.F.R. §1.47(b) applicant must make the oath required by 37 C.F.R. §1.63 and §1.64 or §1.175. Where a corporation is the 37 C.F.R. §1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration.

> A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 C.F.R. §1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 C.F.R. §1.47(b).
>
> (B)The 37 C.F.R. §1.47(b) applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64. (Emphasis supplied.)
>
> ***

Thus, Petitioner must submit an executed oath/declaration and support that document by a certificate under 37 C.F.R. §3.73(b).

Moreover, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) 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, which information is to appear over the signature and registration number of the Petitioner along with evidence of the due diligence effort ascertaining same.

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

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

Petitioner's attention is directed to the discussion in the BACKGROUND and ANALYSIS, above, and should ensure that the deficiencies addressed there are corrected with any future petition herein, to include (but not necessarily be limited to) the requirements that a copy of the

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[3] See: MPEP 409.03(b).

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.

Thus, any renewed petition by Petitioner must include:

- the required signed oath/declaration and showing under 37 C.F.R. §3.73(b);
- a copy of the transmittal letter accompanying the entire application (description, claims, abstract and drawings)—transmitted by the U.S. Postal Service (USPS) or private courier; and
- demonstrated due diligence as required to ascertain an address to be used/supplied for the non-signing inventor (i.e., a residence address) is current or at the very least the most reasonably believed to be last known address for the non-signing inventor.

CONCLUSION

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

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

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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6 The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 12 2008

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

In re Application of
Thomas
Application No. 11/888,248
Filed: 31 July, 2007
Attorney Docket No. 1363-039

DECISION ON PETITION

This is in response to the petition styled "Reconsideration of Decision Denying Petition," filed on 21 February, 2008, under 37 C.F.R. §1.47(b).

> **NOTE**: Petitioner's papers of 21 February, 2008, repeatedly refer to a "Decision Denying the Petition" in referencing the decision herein of 17 December, 2007. No such action ever was taken by the Office. A decision that denies a petition is one that is a final agency action within the meaning of 5 U.S.C. §704. However, the decision of 17 December, 2007, was a dismissal, and, thus, was **not** a final agency action within the meaning of 5 U.S.C. §704.

The petition under 37 C.F.R. §1.47(b) 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 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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

A grantable petition under 37 C.F.R. §1.47(b) requires: the petition and fee; 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); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage.

Once again, Applicant lacks an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116—there previously has been a petition fee, a statement of the last known address of the non-signing inventor, proof of proprietary interest, and allegation of irreparable damage.

Petitioner's attention is directed to the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03 and §409.03(b).

BACKGROUND

The record indicates:

The instant application was filed on 31 July, 2007, without, *inter alia*, a fully executed oath/declaration.

The Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the instant petition was submitted on filing of the application on 31 July, 2007.

On 31 July, 2007, Petitioner Michael T. Sanderson (Reg. No. 43,082) filed, *inter alia*, the original petition (three pages, with averment of irreparable harm at page one of the petition) and fee, an employment agreement (five pages including Exhibit A cover), an oath/declaration (two pages) that is not signed by anyone, and an averment of contact with the non-signing inventor Kasman E. Thomas (Mr. Thomas) and his refusal to sign as averred by Amy Cottle (Ms. Cottle) (four pages including Exhibit B cover), a paralegal for the assignee, and Petitioner (five pages with Exhibit C cover), all alleged to be supported by copies of Emails between Ms. Cottle or Petitioner and Mr. Thomas (three sets of documents each of two pages including the respective Exhibit D, E and G covers) and a fourth document, a communication between Ms. Cottle and Petitioner (three pages including Exhibit F cover). There was weakness as well in Petitioner's evidence of the transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor. (In connection with the matter of the requirement for transmittal of the application to Mr. Thomas, the assignee paralegal appears not to mean in her undated and redacted Email message (quoted in a later message dated 4/25/07, Exhibit E) the same thing by the term "disclosure" as is meant by the term "application," in that her Email message (Exhibit F) dated "3/1/.2007 12:09 pm" uses the term "disclosure" to describe materials she sends to Petitioner for him "to be used in preparation of a patent application"—rather than the application itself. (Emphasis supplied.)) The Petition was dismissed on 17 December, 2007, for failure to satisfy statutory, regulatory and policy requirements in that the oath/declaration appeared to be unsigned, was absent the certificate under 37 C.F.R. §3.73(b).

Petitioner suggested in earlier conversation with the Office that refusal of the Office to grant the existing petition would be in conflict with other Office action—in fact one of the "related" application cited by Petitioner at that time involved an application by a joint (signing) inventor under 37 C.F.R. §1.47(a), and, as indicated earlier, in the instant application the petition under 37 C.F.R. §1.47(b) failed for absence of the required signed oath/declaration and showing under 37 C.F.R. §3.73(b).

Petitioner appears to have taken the opportunity of the instant (and renewed) petition of 21 February, 2008, to demand that the Office look to decisions in other cases, rather than satisfy the requirements set forth in the decision of 17 December, 2007. Notably, Petitioner has not presented this petition as a matter wherein a prior decision granted Rule 47 status in a parent—because there is no parent application to the instant application. Thus, the suggestion that the Office look to a decision in another application is not appropriate. (See: 37 C.F.R. §1.4(b): each application is and must be complete unto itself.)

(It is noted however, that in the application now cited by Petitioner as authority for his argument (to wit: Application No. 11/879,714) the first petition—that is the petition therein of 18 July, 2007—was dismissed on 13 August, 2007, for the same reason the original petition was dismissed herein: the decision of 13 August, 2007, states, in pertinent part: "The petition is DISMISSED. *** No one signed the declaration.")

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]

The instant petition under 37 C.F.R. §1.47(b) is **dismissed**.

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

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

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

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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KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

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NOV 17 2008

OFFICE OF PETITIONS

In re Application of
Thomas
Application No. 11/888,248
Filed: 31 July, 2007
Attorney Docket No. 1363-039

DECISION ON PETITION

This is in response to the petition (renewed) filed on 21 July, 2008, under 37 C.F.R. §1.47(b).

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

A grantable petition under 37 C.F.R. §1.47(b) requires: the petition and fee; 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); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage.

BACKGROUND

The record indicates:

The instant application was filed on 31 July, 2007, without, *inter alia*, a fully executed oath/declaration.

The Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required because the instant petition was submitted on filing of the application on 31 July, 2007.

On 31 July, 2007, Petitioner Michael T. Sanderson (Reg. No. 43,082) filed, *inter alia*, the original petition (three pages, with averment of irreparable harm at page one of the petition) and fee, an employment agreement (five pages including Exhibit A cover), and other supporting documentation, however, the oath/declaration (two pages) was unsigned, and the petition was dismissed on 17 December, 2007. Petitioner's attentions were directed to the requirements at 35 U.S.C. §115 and §116, and the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03 and §409.03(b).

The first renewed petition filed on 21 February, 2008, again failed to include an oath/declaration properly executed by someone authorized by the putative assignee, and was dismissed for this reason on 12 June, 2008.

The instant petition filed on 21 July, 2008, by Petitioner Rebecca Ann Krefft (Reg. No. 58,856) includes a statement by Ryan Richards, averred to be Vice President and General Counsel of the putative assignee, of authority to sign and an oath/declaration executed by him on behalf of that assignee. In view of these documents, along with materials previously filed evidencing proof of proprietary interest:, irreparable damage, and a statement of the last known address of the non-signing inventor Kasman E. Thomas (Mr. Thomas), and demonstration of efforts to obtain the signature of the non-signing inventor Mr. Thomas after providing to him a copy of the entire application (description, claims, abstract and drawings) followed by his express refusal sign/join in the 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]

Petitioner has stated the last known address of the non-signing inventor; offered proof of proprietary interest: and irreparable damage, and that the non-signing inventor has refused to sign/join in the filing of the above-identified application.

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

CONCLUSION

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

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

---

[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.

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

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

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

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

§1.2 Business to be transacted in writing.

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NOV 17 2008

OFFICE OF PETITIONS

KASMAN E. THOMAS
18 FAIRFAX AVENUE
WILTON, CT 06897

In re Application of
Thomas
Application No. 11/888,248
Filed: 31 July, 2007
Attorney Docket No. 1363-039

DECISION ON PETITION

Dear Kasman E. Thomas:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, 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 C.F.R. §1.63.

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

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

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

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:
KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

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

§1.2 Business to be transacted in writing.

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

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Walter T. Kim
Suite 1300
2030 Main Street
Irvine, CA 92614

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Byung II Ham	:	
Application No. 11/888,262	:	DECISION ON PETITION
Filed: July 31, 2007	:	TO WITHDRAW
Attorney Docket No. HAM.P007	:	FROM RECORD
	:	

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 9, 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 Walter T. Kim on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Byung II Ham**
8 Calle Viento
Rancho Pales Verdes, CA 90275

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/888,262	07/31/2007	Byung Il Ham	HAM.P007

CONFIRMATION NO. 4168

Walter T. Kim
Suite 1300
2030 Main Street
Irvine, CA 92614

POWER OF ATTORNEY NOTICE

OC000000031828829

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/09/2008.

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

/tswilliams/

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

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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.
11/888,291	07/31/2007	Paul Albert Sagel	7478C2C4	3612

7590 03/21/2008

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER	
GITOMER, RALPH J	
ART UNIT	PAPER NUMBER
1657	
MAIL DATE	DELIVERY MODE
03/21/2008	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: 03/21/2008 KKING1
08/02/2007 HDEMESS1 00000013 162480 11888291
02 FC:1111 500.00 CR

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LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of :
Musikant, et al. :
Application No. 11/888,329 :
Filed: July 31, 2007 :
Attorney Docket No. ESSEN 3.0-024 :
CIP :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

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

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

Petitioner has demonstrated that inventor Gu was unable to be located after a mailing to his last known address was returned as undeliverable. In particular, petitioner has included copies of an internet search.

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUAN GU
274A FULLER DR
NEW MILFORD NJ 07646

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of
Barry L. Musikant, Allan S. Deutsch,
Brian Rasimick, Quan Gu
Application No. 11/888,329
Filed: July 31, 2007
Title: Epoxy Based Oil Free Root Canal Sealer

LETTER

Dear Mr. Gu:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 05/17/2010

Applicant	: Gregory Starr	: DECISION ON REQUEST FOR
Patent Number	: 7646237	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/888,336	: 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 **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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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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MAY 28 2008

In re Application of :
Ranganathan, et al. :
Application No. 11/888,348 : DECISION
Filed/Deposited: 1 August, 2007 :
Attorney Docket No. 200700096-1

This is a decision on the petition filed on 13 September, 2007, requesting that the above-identified application be accorded a filing date of 31 July, 2007, rather than the presently accorded date of 1 August, 2007. The petition is properly treated as a petition under 37 C.F.R. §1.10(c).

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

The petition is **DISMISSED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on 31 July, 2007, pursuant to 37 C.F.R. §1.10. While the copy of the Express Mail Label Receipt No. EV963157790US bears a handwritten "date-in" of "8/1/07," it also includes a USPS receipt date stamp of "JUL 31 2007." Petitioner avers that the date of mailing shown in the "date-in" is an error of the U. S. Postal Service (USPS) and the correct date of mailing pursuant to 37 C.F.R. §1.10 is 31 July, 2007.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label. (See: MPEP §513.) However, in view of the conflicting dates on the label, the Office of Petitions made a search of the USPS Express Mail Track & Confirm database (http://www.usps.com/shipping/trackandconfirm.htm) when Petitioner failed to do so and present the results.

The Express Mail Label Receipt No. EV963157790US bears a handwritten "PO Zip Data" of "22116," as does the date-stamp, and the handwritten "Time Accepted" is "00:08 AM."

The USPS Track & Confirm database for the Express Mail Label Receipt No. EV963157790US provides as follows:

Acceptance MERRIFIELD VA 22116 08/01/07 12:05am

indicating that the package label was accepted by the USPS and scanned into the system after midnight 31 July, 2007, and on the morning of 1 August, 2007.

Thus, the Track & Confirm database confirms that the package bearing Express Mail Label Receipt No. EV963157790US was accepted by the USPS on 1 August, 2007.

The petition is **dismissed**.

The petition fee is not waived and is charged as authorized to Deposit Account 08-2025

This application file is being returned to the Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) for **confirmation of the filing date as 1 August, 2007, and issuance of a corrected filing receipt if necessary.**

Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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Gillon, John

From: U.S._Postal_Service_[U.S._Postal_Service@usps.com]
Sent: Thursday, May 22, 2008 1:11 AM
To: Gillon, John
Subject: U.S. Postal Service Track & Confirm email Restoration - EV96 3157 790U S

This is a post-only message. Please do not respond.

John Gillon has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

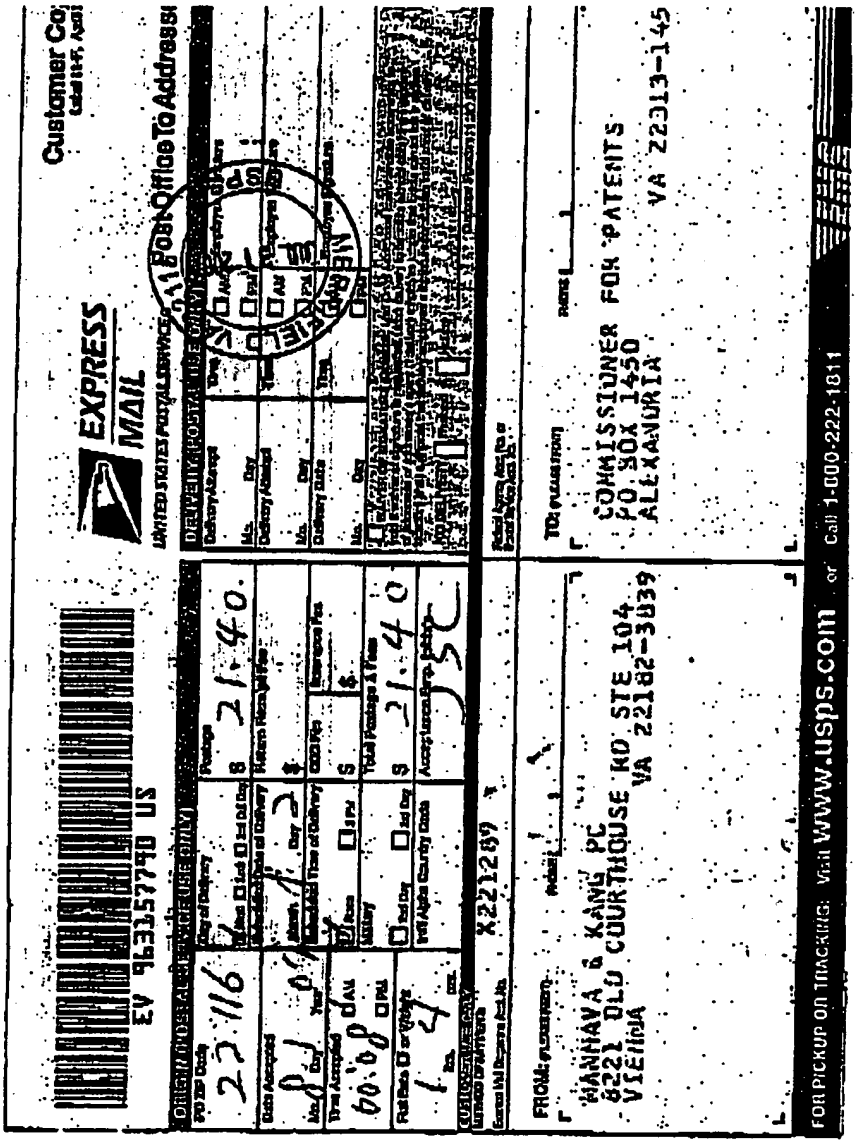
Label Number: EV96 3157 790U S

Service Type: Express Mail - Post Office to Addressee

Shipment Activity	Location	Date & Time
Delivered	ALEXANDRIA VA 22313	08/01/07 9:39am
Arrival at Unit	DULLES VA 20102	08/01/07 6:43am
Processed	DULLES VA 20102	08/01/07 2:20am
Processed	MERRIFIELD VA 22081	08/01/07 12:11am
Acceptance	MERRIFIELD VA 22116	08/01/07 12:05am

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at http://www.usps.com/shipping/trackandconfirmfaqs.htm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8221 OLD COURTHOUSE RD STE 104
VIENNA VA 22182-3939
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PO BOX 1450
ALEXANDRIA VA 22313-145
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Jayant S. Karmarkar
712 Via Palo Alto
Aptos CA 95003

MAILED

MAR 10 2010

OFFICE OF PETITIONS

In re Application of :
Jayant S. Karmarkar :
Application No. 11/888,372 : ON PETITION
Filed: August 2, 2007 :
Attorney Docket No. :
JSKEplsodeSystemContinuat

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 4, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement (PTO/SB/130 form) by the applicant that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. 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 3714 for action on the merits commensurate with this decision.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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J. David Nelson
NELSON SNUFFER DAHLE & POULSEN, P.C.
10885 South State Street
Sandy UT 84070

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JUN 14 2008

In re Application of	:	
James Hoyt Clark	:	
Application No 11/888390	:	DECISION
Filing or 371(c) Date: 08/01/2007	:	ON PETITION
Title of Invention:	:	
AUTOMATED SKIN ELECTRICAL	:	
RESISTANCE MEASUREMENT	:	
DEVICE AND METHOD	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)," filed May 30, 2008.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed August 16, 2007. The Notice set a two (2) month period for reply. No reply having been received, this application became abandoned on October 17, 2007. A Notice of Abandonment was mailed April 30, 2007.

The present petition

Applicant files the present petition and asserts that a timely response was filed on September 14, 2007, via Express Mail. Applicant files a copy of the reply. A review of the reply reveals that the application serial number on the reply is incorrectly listed as 11/888,930, instead of 111/888,390.

Office records

A review of Office records reveals that the response was filed in application 11/888,930 on September 15, 2007. A further review of the response filed in application 11/888,930 on September 15, 2007 reveals that the correct inventor, application filing dater, and title of invention were included on the response.

Conclusion

In view of the above, it is apparent that the response to Notice was filed in this Office on September 15, 2007, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Accordingly, the holding of abandonment is hereby withdrawn.

The application will be referred to the Office of Patent Application Processing for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FORT COLLINS CO 80527-2400

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of :
Pavel Kisilev :
Application No. 11/888,395 : ON PETITION
Filed: July 31, 2007 :
Attorney Docket No. 200701600-1 :

This is a decision on the petition filed October 22, 2007, in response to the Notice to File Missing Parts mailed August 17, 2007. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED** as involving moot issues.

After the application was filed and a filing date accorded, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts on August 17, 2007 stating that while the application had been accorded a filing date, that Figure 22 as described in the specification, appeared to have been omitted.

In response, the present petition was filed. Petitioner admits that the drawings of Figure 22 were inadvertently omitted but that it provides information that is repeated later in the application and does not constitute new matter. Replacement sheets are provided.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

The Office of Patent Application Processing will be notified to process the application without Figure 22, and the replacement sheets filed October 22, 2007 will be retained in the file for review by the Examiner in due course.

In view of the above, the petition fee in the amount of $400.00 will be credited to deposit account no. 50-2976.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Mark S. Tracy et al. :
Application No. 11/888,402 : DECISION REFUSING STATUS
Filed: July 31, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 200701252-1 :

This decision is in response to the petition filed December 17, 2007 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

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

The above-identified application was filed on July 31, 2007, with an unsigned oath or declaration. Accordingly, on August 17, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a two month extension of time request, and a declaration executed by all joint inventors except Jonathan R. Harrison, in their own stead and on behalf of the non-signing joint inventors, was filed. Petitioner claims that joint inventor Harrison 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 located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

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

(3) the petition fee;

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

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

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

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

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(d).

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MAR 27 2008

In re Application of	:
Mark S. Tracy et al.	:
Application No. 11/888,402	: DECISION REFUSING STATUS
Filed: July 31, 2007	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 200701252-1	:

This decision is in response to the request for reconsideration March 12, 2008 under 37 CFR 1.47(a).

The petition is **DISMISSED**.

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

The above-identified application was filed on July 31, 2007, with an unsigned oath or declaration. Accordingly, on August 17, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. A petition filed December 17, 2007 arguing that Jonathan R. Harrison refuses to sign the declaration was dismissed in a decision dated January 11, 2008 because sufficient evidence was not provided to prove that a copy of the application was sent or given to the non-signing inventors only that the Declaration and Assignment was sent to joint inventor Harrison.

Comes now petitioner with proof that a complete application has been mailed to joint inventor Jonathan R. Harrison but that the package containing the application papers was undeliverable however, petitioners have not provided sufficient evidence to show that diligent efforts have been made to locate non-signing inventor Harrison.[1]

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

[1] MPEP 409.03(d).

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 still lacks item (1).

Petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the **additional efforts** to locate Mr. Harrison, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

If Mr. Harrison refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

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
Senior Petitions Attorney
Office of Petitions

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Mark S. Tracy et al. :
Application No. 11/888,402 : DECISION REFUSING STATUS
Filed: July 31, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 200701252-1 :

This decision is in response to the request for reconsideration filed May 27, 2008 under 37 CFR 1.47(a)[1].

The petition is **GRANTED**.

The above-identified application was filed on July 31, 2007, with an unsigned oath or declaration. Accordingly, on August 17, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. A petition filed December 17, 2007 arguing that Jonathan R. Harrison refused to sign the declaration was dismissed in a decision dated January 11, 2008 because sufficient evidence was not provided to prove that a copy of the application was sent or given to the non-signing inventors only that the Declaration and Assignment was sent to joint inventor Harrison. A request for reconsideration was filed March 12, 2008 but was dismissed in a decision mailed March 27, 2008 because while it was shown that a complete application had been mailed to joint inventor Jonathan R. Harrison, the package containing the application papers was undeliverable and no evidence was provided to show that petitioners had been diligent in trying to locate him.[2]

In response to the decision dismissing the petition filed March 12, 2008, the request for

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[1] 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.

[2] MPEP 409.03(d).

reconsideration bears proof that additional efforts were undertaken to locate the non-signing inventor but those efforts were unsuccessful. The evidence is therefore sufficient to establish diligence as required by the regulation.

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 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/888,439	07/31/2007	Paul Schnackenberg	081835.020062	4422

34018 7590 05/24/2010

GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 3100
CHICAGO, IL 60601-1732

EXAMINER	
NGUYEN, TAI T	

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
05/24/2010	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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TECHNOLOGY CENTER 2600

GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 3100
CHICAGO IL 60601-1732

In re Application of
SCHNACKENBERG, PAUL
Appl. No.: 11/888,439
Filed: July 31, 2007
For: **TRAFFIC SIGNAL TRANSFER SWITCH WITH HOUSING CONSTRUCTIONS**

DECISION ON PETITION

This is a decision on the petition filed April 27, 2010, to expunge materials which were submitted in an incorrect application.

Petitioner asserts the following:

1) the information to be expunged comprises a transmittal letter (dated December 21, 2009 and signed by the undersigned), a form PTO-1449 and three "NPL" references, all having been assigned a mail room date of December 28, 2009 (as they presently appear in "PAIR");

2) this petition is being submitted on behalf of the party in interest on whose behalf the information was submitted;

3} the information, which is directed to disclosures pertaining to office actions in patent applications for a completely different inventive entity, and unrelated application and technology, is directed to the subject matter of transfer switches for portable electrical generators, and is therefore completely immaterial to the subject matter of U.S. Serial No. 11/700,797;

4) the information was originally intended to be submitted against then already published US Ser. No. 11/888,439 and was, in fact, physically submitted together with a response to an office action, which was correctly posted against the '439 patent application.

A review of the file SN 11/700,797 finds that the IDS including the three NPL references filed December 28, 2009 was clearly not intended for that application as evidence by the completely unrelated subject matter and the unmatched attorney docket number identified on the PTO-1449.

Accordingly, the petition is **GRANTED**.

The IDS filed December 28, 2009 along with the three NPL references in connection with this document entered in US Serial Number 11/700,797 have been removed (e.g. closed) from the electronic file wrapper and transferred to the correct application SN 11/888,439. The application is currently in Final Rejection mailed status and is awaiting next action by the applicant.

/Michael Horabik/

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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CHARLES F. MERONI, JR.
MERONI & MERONI, P.C.
P.O. BOX 309
BARRINGTON, IL 60011

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NOV 16 2007

OFFICE OF PETITIONS

In re Application of

Philipp Gruner et al.
Application No. 11/888,519
Filed: August 1, 2007
Attorney Docket No. 07037

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

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

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

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

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 2832 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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WESLEY B. AMES
7031 LOS VIENTOS SERENOS
ESCONDIDO, CA 92029

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OFFICE OF PETITIONS

In re Application of :
William Soo Hoo :
Application No. 11/888,520 : ON PETITION
Filed: August 1, 2007 :
Attorney Docket No. SOO.001.P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 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 January 17, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 18, 2008. A Notice of Abandonment was mailed September 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a sequence listing, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed : 04/16/10

Patent No. : 7667828 B2
Inventor : GIBSON, GARY A.
Patent Issued : 02/23/10
Docket No. : **200603151-1**

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.

Inspection of the file of the application for the patent reveals that in column 11, line 25 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

Lmn

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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON MA 02108

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DEC 16 2008

In re Application of:	:	
LEE, Jae-Hoon	:	
Application No.: 11/888,535	:	DECISION GRANTING
Filed: August 1, 2007	:	PETITION
Attorney Docket No.: SAM-1129	:	

This is a decision on the Request for Correction to Filing Receipt, filed September 7, 2007. The Request has been treated as a petition requesting that the above-identified application be accorded a filing date of August 1, 2007, rather than the presently accorded date of August 2, 2007. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited with the United States Postal Service (USPS) on August 1, 2007 as an Express Mail Post Office To Addressee mailing bearing Express Mail label No. EM 046009037 US. The petition was accompanied, inter alia, by a copy of the Customer Copy of Express Mail label No. EM 046009037 US. The evidence is convincing that the application was deposited with the USPS as an Express Mail mailing on August 1, 2007 in accordance with the provisions of 37 CFR 1.10. Accordingly, it is appropriate to accord this provisional application a filing date of August 1, 2007.

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 **August 1, 2007** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

Brian W. Brown
Petitions Examiner
Office of Petitions

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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON MA 02108

MAILED

MAY 15 2009

OFFICE OF PETITIONS

Applicant: Lee
Appl. No.: 11/888,535
Filing Date: August 1, 2007
Title: Method And Apparatus For Indirectly Simulating A Semiconductor Integrated Circuit
Attorney Docket No.: SAM-1129
Pub. No.: 2008/0040090 A1
Pub. Date: February 14, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 14, 2008 for the above-identified application and supplemented on May 13, 2009.

Applicant requests that the application be republished because the patent application publication contains material errors in claims 30 and 33.

The request is GRANTED.

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

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

Inquiries relating to this matter may be directed to 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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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON MA 02108

MAILED

AUG 28 2009

OFFICE OF PETITIONS

Applicants: Lee
Appl. No.: 11/888,535
Filing Date: August 1, 2007
Title: METHOD AND APPARATUS FOR INDIRECTLY SIMULATING A SEMICONDUCTOR INTEGRATED CIRCUIT
Pub. No.: US 2009/021512 A2
Pub. Date: March 12, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 14, 2008 and May 13, 2009, and petition for removing the decision granting the corrected publication request due to an errant second paragraph which referenced errors in claims 30 and 33 received on June 22, 2009, for the above-identified application.

The petition is dismissed.

The request for corrected publication was granted.

The application was republished on August 27, 2009. The filing date is listed as August 1, 2007.

The record is clear from the 55 page request for corrected publication that applicant requested corrected publication due to an error in the filing date.

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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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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NOV 25 2009

OFFICE OF PETITIONS

In re Application of :
Olsen et al :
Application No. 11/888,546 : DECISION ON PETITION
Filed: August 1, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 088245-6128 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications in the concurrently filed applications.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on August 1, 2007. Intermediate Application No. 11/212,803, was filed within twelve months of the filing date of the prior-filed provisional applications, Application No. 60/604,854 filed August 25, 2004 and Application No. 60/695,946 filed July 1, 2005, and for which priority is claimed. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement

of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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

The $1,410.00 fee required by 37 CFR 1.78(a)(6)(ii) has been received.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, V9 53701-1497

COPY MAILED
JAN 19 2010

In re Application of :
Richardian Olsen et al :
Application No. 11/888,546 : DECISION ON PETITION
Filed: August 1, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 088245-6128 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed December 22, 2009 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. Intermediate Application No. 11/212,803 was filed within twelve months of the filing date of the prior-filed provisional applications.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2878 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

/KOC/
Karen Creasy
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/888,546	08/01/2007	2878	2725	088245-6128	54	1

CONFIRMATION NO. 4733

CORRECTED FILING RECEIPT

23524
FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

OC00000039691678

Date Mailed: 01/15/2010

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

Applicant(s)

Richard Ian Olsen, Newport Beach, CA;
Darryl L. Sato, Irvine, CA;
Borden Moller, Laguna Beach, CA;
Olivera Vitomirov, Foothill Ranch, CA;
Jeffrey A. Brady, Newport Beach, CA;
Ferry Gunawan, Tustin, CA;
Remzi Oten, Irvine, CA;
Feng-Qing Sun, Irvine, CA;
James Gates, Carlsbad, CA;

Assignment For Published Patent Application

Newport Imaging Corporation

Power of Attorney: The patent practitioners associated with Customer Number 23524

Domestic Priority data as claimed by applicant

This application is a DIV of 11/212,803 08/25/2005 ABN
which claims benefit of 60/604,854 08/25/2004
and claims benefit of 60/695,946 07/01/2005

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/888,546**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

DIGITAL CAMERA WITH INTEGRATED ULTRAVIOLET (UV) RESPONSE

Preliminary Class

250

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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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,448,599
Ser. No. : 11/888,553
Inventor(s) : Richard Boroviak
Issued : November 11, 2008
Title : GATE BRACKET SYSTEMS AND METHODS
Docket No. : P215497KRU

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1575

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM WA 98225-2412

MAILED

APR 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,448,599	:	
Issue Date: November 11, 2008	:	
Application No. 11/888,553	:	ON PETITION
Filed: July 31, 2007	:	
Attorney Docket No. P215497KRU	:	

This is a decision on the petition filed January 19, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Terri Johnson
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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.
11/888,558	08/01/2007	Shigeyuki Yamashita	450100-06006	5494

7590 08/27/2009

WILLIAM S. FROMMER, Esq.
c/o FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

EXAMINER
BARRON JR, GILBERTO

ART UNIT	PAPER NUMBER
2432	

MAIL DATE	DELIVERY MODE
08/27/2009	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

Login. Ref: 08/28/2009 BPOWELL 0012161100
[illegible] Name/Number:11888558
FC: 9204 $700.00 CR

Abandonment Date: 08/28/2009 BPOWELL
08/03/2007 WANDELKI 00000002 11888558
01 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

COPY MAILED
FEB 16 2010

In re Application of	:	
Richard Ian OLSEN et al.	:	
Application No. 11/888,582	:	DECISION ON PETITION
Filed: August 01, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 088245-6130	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 02, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.
The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective

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

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

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

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

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

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

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K Page/
Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 07 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Richard Ian OLSEN et al.	:	
Application No. 11/888,582	:	DECISION ON PETITION
Filed: August 01, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 088245-6130	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 31, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 2878 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/888,582	08/01/2007	2878	2825	088245-6130	58	1

CONFIRMATION NO. 4618

CORRECTED FILING RECEIPT

23524
FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

Date Mailed: 05/07/2010

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

Applicant(s)

Richard Ian Olsen, Newport Beach, CA;
Darryl L. Sato, Irvine, CA;
Borden Moller, Laguna Beach, CA;
Olivera Vitomirov, Foothill Ranch, CA;
Jeffrey A. Brady, Newport Beach, CA;
Ferry Gunawan, Tustin, CA;
Remzi Oten, Irvine, CA;
Feng-Qing Sun, Irvine, CA;
James Gates, Carlsbad, CA;

Assignment For Published Patent Application

Newport Imaging Corporation

Power of Attorney: The patent practitioners associated with Customer Number 23524

Domestic Priority data as claimed by applicant

This application is a DIV of 11/212,803 08/25/2005 ABN
which claims benefit of 60/604,854 08/25/2004
and claims benefit of 60/695,946 07/01/2005

Foreign Applications

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 11/888,582**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Digital camera with multiple pipeline signal processors

Preliminary Class

250

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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JUN 20 2008

OFFICE OF PETITIONS

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
HENRY W. OLIVER BUILDING
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

In re Application of	:	
Lauren Nicole Barker et al	:	DECISION GRANTING STATUS
Application No. 11/888,594	:	UNDER 37 CFR 1.47(a)
Filed: August 1, 2007	:	
Attorney Docket No. 050128CON/CRP.0003.US02	:	

This is in response to the petition under 37 CFR 1.47(a), filed September 20, 2007.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor (Patrick J. Langa) cannot be located 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.

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.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Michelle K. Holoubek
Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N.W.
Washington, DC 20005-3934

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TY UNG
16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436

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JUL 24 2008

In re Application of

EVERLY, Phillip J.
Application No. 11/888,698
Filed: July 31, 2007
Attorney Docket No. **22217-004**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **(no longer with firm)**, 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PATEL & ALUMIT PC**
16830 VENTURA BLVD., SUITE 360
ENCINO, CA 91436

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MICHAEL J. COLITZ, JR.
640 DOUGLAS AVENUE
DUNEDIN, FL 34698

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Leo Rosenzweig :
Application No. 11/888,711 : DECISION ON PETITION
Filed: August 2, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. RJ02/01 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 2, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's state issued identification card. Accordingly, the above-identified application has been accorded "special" status.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS W. EPTING
LEATHERWOOD WALKER TODD & MANN, P.C.
300 EAST MCBEE AVENUE, SUITE 500
P.O. BOX 87
GREENVILLE SC 29601

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AUG 23 2007

OFFICE OF PETITIONS

In re Application of :
UZES, Charles, A. :
Application No. 11/888,725 : DECISION ON PETITION
Filed: August 2, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **133221.4** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 2, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the affidavit of inventor Charles A. Uzes, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/888,786	08/01/2007	Jin Young Choi	AB-2176 US	5026

7590 04/09/2009

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

EXAMINER	
CALEY, MICHAEL H	

ART UNIT	PAPER NUMBER
2871	

MAIL DATE	DELIVERY MODE
04/09/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/10/2009 HFARMER
08/06/2007 EAYALEW1 00000016 502257 11888786
02 FC:1111 500.00 CR
04 FC:1201 400.00 CR
05 FC:1202 600.00 CR

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ANNA WU
P.O. BOX 93286
CITY OF INDUSTRY, CA 91715

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SEP 23 2008

In re Application of Zeng :
Application No. 11/888,810 : Decision on Petition
Filing Date: August 2, 2007 :
Attorney Docket No. AWUP22-PAT32 :

This is a decision on the petition under 37 CFR 1.181 filed June 17, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

A Notice to File Corrected Application Papers was mailed August 17, 2007. The Notice required the submission of corrected drawings within a two-month time period.

Corrected drawings were not matched with the filed. As a result, a Notice of Abandonment was mailed May 2, 2008.

Petitioner contends corrected drawings were timely mailed in compliance with 37 CFR 1.8 on September 29, 2007.

One may prove the timely filing of papers by providing a showing in compliance with 37 CFR 1.8(b). 37 CFR 1.8(b) states,

> 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 August 17, 2007, is hereby withdrawn and the application restored to pending status.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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W THOMAS TIMMONS
1320 PRUDENTIAL DRIVE
SUITE 208
DALLAS TX 75235-4117

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OFFICE OF PETITIONS

In re Application of	:	
David N. Sporkin	:	
Application No. 11/888,833	:	DECISION ON PETITION
Filed: August 2, 2007	:	
Attorney Docket No. P-B244-CIP	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 27, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice to File Corrected Application Papers, mailed August 20, 2007. This Notice set an extendable period for reply of two (2) months for applicants to submit replacement drawings. No drawings having been received, the application became abandoned on October 21, 2007. A Notice of Abandonment was mailed on May 2, 2008.

Petitioner argues that he timely filed drawings. In support thereof, petitioner has included a copy of a response transmitting the drawings, bearing a Certificate of Mailing dated November 20, 2007, together with a one month extension of time, also with a Certificate of Mailing dated November 20, 2007. In addition, a review of Office records confirms that the Office received the one month extension on November 23, 2007.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to the Office of Patent Application Processing for processing using the replacement drawings (Certificate of Mailing dated November 20, 2007), a copy of which has been supplied with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

MAIL

OCT 10 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
AALTONEN, JANNE, et al.	:	DECISION ON REQUEST TO
Application No. 11/888,852	:	PARTICIPATE IN PATENT
Filed: August 2, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 07321/RPM	:	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 August 6, 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 UKIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the UKIPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the UKIPO 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 UKIPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the UKIPO examiner in the UKIPO 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 deficient as follows:

Petitioner has not complied with item 1 above in that the petition fails to include a valid priority claim under 35 U.S.C. 119(a) to UKIPO/PCT application numbers 0420339.4 and 803553.7.

Furthermore, Petitioner has not complied with items 2 and 5 in that the petition fails to include a copy of all Office actions from the UKIPO application and copy of all claims which were determined to be patentable by the UKIPO. The U.S. Patent and Trademark Office does not have the capability to download documents from the Dossier Access System at this time.

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.

Any Response must be submitted by EFS web.

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.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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
AALTONEN, JANNE, et al.
Application No. 11/888,852
Filed: August 2, 2007
Attorney Docket No. 07321/RPM

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 for reconsideration 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 **GRANTED**.

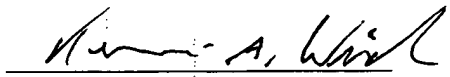
A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the UKIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the UKIPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the UKIPO 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 UKIPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the UKIPO examiner in the UKIPO 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 now 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.



Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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FRISHAUF HOLTZ GOODMAN & CHICK, PC
220 FIFTH AVENUE
16th FLOOR
NEW YORK, NY 10001-7708

In re Application of :
Janne Aaltonen et al :
Application No. 11/888,852 : ON PETITION
Filed: August 2, 2007 :
Attorney Docket No. 07321/RPM

This is a decision on the petition, filed June 9, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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 2627 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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 19 2009

OFFICE OF PETITIONS

Applicant: Bicknell
Appl. No.: 11/888,855
Filing Date: August 2, 2007
Title: ANTIBODIES, POLYPEPTIDES AND USES THEREOF
Attorney Docket No.: P0357.70001US03
Pub. No.: 2008/0166295 A1
Pub. Date: July 10, 20008

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

The request is DISMISSED.

Applicant requests that the application publication has formatting errors in the claims section wherein in claim 8, "QI" is not aligned with the remainder of the sequence and the "SEQ ID NO: 12" is not aligned with the sequence, wherein in claim 10, "Q" is aligned with the remainder of the sequence and in claims 10 and 23 the "SEQ IS NO:" is not aligned with the sequence in several instances.

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

The error in the alignment of "QI" in claim 8 and "Q" in claim 10 are not Office errors. The claims as amended have the alignment as shown.

The mistake in the alignment of the "SEQ ID NO" with respect to the sequence in claims 8, 10 and 23 may be Office errors, but they are not material Office errors under 37 CFR 1.221. The "SEQ IS NO's" are just a little offset from the sequence and this portion of the claims is clear to one of ordinary skill in the art. The errors are minor formatting errors, which are clearly understandable to one of ordinary skill in the art in reading the claims. The mistakes do not

[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).

affect the understanding of the claim. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

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

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

Inquiries relating to this matter may be directed to 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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CHARLES G. CALLI
20 EAST GOETHE STREET, CH1
CHICAGO IL 60610-2368

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MAY 20 2008

OFFICE OF PETITIONS

In re Application of :
LOGAN, et al. :
Application No. 11/888,864 : DECISION ON PETITION
Filed: August 2, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **H-15** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the declaration of inventor Charles G. Call, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-2100.

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

The application is being forwarded to the Technology Center Art Unit 2161 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
www.uspto.gov

MAILED

OCT 2 - 2007

Technology Center 2100

MESCHKOW & GRESHAM, P.L.C.
5727 NORTH SEVENTH STREET, SUITE 409
PHOENIX AZ 85014

In re Application of:
Charles P. McCollum et al.
Serial No.: 11/888,865
Filed: August 3, 2007
Docket: 7791-A-1CONDIV
Title: APPLIANCE METAPHOR FOR ADDING MEDIA FUNCTION TO A WEB PAGE

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

This is a decision on the petition filed on August 31, 2007 to make the above-identified application (filed August 3, 2007) special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because 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 31, 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 at the time of filing the application, nor were they 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, subsection II was required to be filed prior to August 25, 2006.

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

Any inquiry regarding this decision should be directed to Kakali Chaki, at (571) 272-3719.

Kakali Chaki, Quality Assurance Specialist

Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Application of :
Jerome B. Zeldis :
Application No. 11/888,881 : ON PETITION
Filed: August 1, 2007 :
Attorney Docket No. **9516-488-999** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 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 Final Office action mailed, May 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 August 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

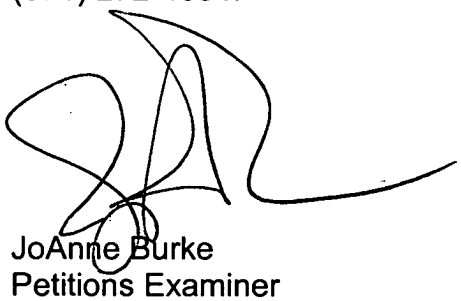
that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to be acknowledged as the attorney of record in this application, the appropriate power of attorney document must be submitted.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on November 24, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 12/621,502.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLACK LOWE & GRAHAM PLLC
JEFFREY J. KING, ESQ.
SUITE 4800
701 FIFTH AVENUE
SEATTLE WA 98104

MAILED

AUG 19 2009

OFFICE OF PETITIONS

Applicant: Alvise Fracasso, et al.
Appl. No.: 11/888,894
Filing Date: August 1, 2007
Title: GUARDRAIL
Attorney Docket No.: STOR-1-0501
Pub. No.: US 2008/0054240 A1
Pub. Date: March 6, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 26, 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 town of residence for one of the applicants is mispelled.

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

The request for corrected publication, received on May 26, 2009, was not timely filed under 37 CFR 1.221(b).

Moreover, the error on the front page of the publication wherein the spelling of the applicant's town of residence is misprinted is not a material Office error under 37 CFR 1.221. The Office received a Combined Declaration and Power of Attorney on November 16, 2007, wherein the

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

residence is handwritten and the spelling of the town of residence is not very legible, it appears to have a "v" instead of a "u" in "Brvgine".

Furthermore, the misprinting of the applicant's residence 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 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.

On November 29, 2007 a Filing Receipt was mailed by the Office, which listed the applicant's town of residence as "Brvgine". To avoid this type of problem in the future, applicant's representative should correct the error and make a request for a corrected filing receipt prior to export of the application to the publisher and publication of the application.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BLACK LOWE & GRAHAM PLLC
JEFFREY J. KING, ESQ.
SUITE 4800
701 FIFTH AVENUE
SEATTLE WA 98104

COPY MAILED
JAN 27 2010

In re Application of	:	
Alvise Fracasso et al	:	
Application No. 11/888,894	:	DECISION ON PETITION
Filed: August 1, 2007	:	
Attorney Docket No. STOR-1-0501	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 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 drawings; (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 June 18, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings submitted on November 6, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/888,917	08/02/2007	Kenichiro Nagao	SONYJP 3.0-1449	5064

7590 09/10/2009

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER	
TRAN, THAI Q	
ART UNIT	PAPER NUMBER
2621	
MAIL DATE	DELIVERY MODE
09/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 MFARMER
12/03/2007 HDESTA1 00000018 121095 11888917
03 FC:1111 510.00 CR

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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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED

MAR 27 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Schaevitz, et al. :
Application No. 11/888,943 :
Filed: 3 August, 2007 :
Attorney Docket No. 103667-0007-101 :

This is a decision on the petition filed on 19 November, 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."

Petitioner's attention is drawn to the concern that, contrary to the statement in the petition, the documents supplied clearly evidence that only the oath/declaration (with assignment) was sent to the non-signing inventor, and not a copy of the application (description claims, abstract and drawings) as required by law, i.e., statute and regulation (see: the guidance in the Commentary at

MPEP §409 et seq.).

BACKGROUND

The record indicates:

- the instant application was filed on 3 August, 2007, without, *inter alia*, a fully executed oath/declaration;

- on 21 September, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 19 November, 2007, Petitioner Edward Kelley (Reg. No. 38,936),filed, *inter alia*, an oath/declaration signed by co-inventors Schaevitz, Byars, Ganeshananthan and Verma for themselves and on behalf of non-signing inventor Vladimir Petrovsky (Mr. Petrovsky), a petition and statement of last known address of the non-signing inventor, however, the supporting documentation (Email and mail transmittal) clearly reflect that only the oath/declaration with assignment, and not the entire application, (description, claims, abstract and drawings) were sent to the non-signing inventor and this fails to satisfy the requirements of law (statutes and regulations (see: the guidance in the Commentary at MPEP §409 et seq.).

Petitioner is respectfully requested to clarify the conflict between the statement and the documents, or, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements.

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

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

---

[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.
> * * *

(See, also: 37 C.F.R. §1.63.)

Further, when one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. (See: the commentary at MPEP §409.03(d).)

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

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

Petitioner's attention is directed to the discussion in the NOTES, BACKGROUND and ANALYSIS, above, and Petitioner should ensure that the deficiencies addressed there are corrected with any future petition herein, to include (but not necessarily be limited to) 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

[3] See: MPEP 409.03(b).

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 clarify the apparent contradiction between the statement and the documents, or, if necessary, 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:

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.23) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
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BOSTON MA 02110-2624

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DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Schaevitz, et al. : DECISION ON PETITION
Application No. 11/888,943 :
Filed: 3 August, 2007 :
Attorney Docket No. 103667-0007-101

This is a decision on the petition filed on 17 June, 2008, under 37 C.F.R. §1.47.

The petition as considered under 37 C.F.R. §1.47(a) 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 C.F.R. §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 C.F.R. §1.136(a).

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

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

Petitioner does not seemed to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See* MPEP §409.03, and §409.03(a), et seq.)

Applicant lacks: demonstration of a diligent effort to ascertain last known address for the non-signing inventor with additional evidence thereafter that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the entire application (description, claims, abstract and drawings), as set forth above.

As to 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): the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP §409.03, and §409.03(a) and (e): "a *bona fide* attempt."

BACKGROUND

The record indicates:

The instant application was filed on 3 August, 2007, without, *inter alia*, a fully executed oath/declaration.

On 21 September, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required.

On 19 November, 2007, Petitioner Edward Kelley (Reg. No. 38,936),filed, *inter alia*, an oath/declaration signed by co-inventors Schaevitz, Byars, Ganeshananthan and Verma for themselves and on behalf of non-signing inventor Vladimir Petrovsky (Mr. Petrovsky), a petition and statement of last known address of the non-signing inventor, however, the supporting documentation (Email and mail transmittal) clearly reflected that only the oath/declaration with assignment, and not the entire application, (description, claims, abstract and drawings) were sent to the non-signing inventor and this fails to satisfy the requirements of law (statutes and regulations (see: the guidance in the Commentary at MPEP §409 et seq.). Petitioner was respectfully requested to clarify the conflict between the statement and the documents, or, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements—and the petition was dismissed on 27 March, 2008.

On 17 June, 2008, Petitioner filed renewed petition and averred the address of Mr. Petrovsky at "the University of Missouri—Rolla," however, effective January 2008, the institution became Missouri University of Science and Technology, and a search of its website indicates that Mr. Petrovsky may no longer be associated with it.

Petitioner should clarify this matter on any renewed petition.

Should Petitioner be unable to do so, Petitioner should make the appropriate search, and should that search reveal another address, the entire application must be sent to Mr. Petrovsky pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq.

Thus, the present incompleteness of the record makes granting of the instant petition inappropriate.

Any renewed petition should provide a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to the non-signing inventor. Petitioner is reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

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]

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

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

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Schaevitz, et al. : DECISION ON PETITION
Application No. 11/888,943 :
Filed: 3 August, 2007 :
Attorney Docket No. 103667-0007-101

This is a decision on the petition filed on 27 February, 2009, under 37 C.F.R. §1.47.

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

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

BACKGROUND

The record indicates:

The instant application was filed on 3 August, 2007, without, *inter alia*, a fully executed oath/declaration.

On 21 September, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required.

On 19 November, 2007, Petitioner Edward Kelley (Reg. No. 38,936),filed, *inter alia*, an oath/declaration signed by co-inventors Schaevitz, Byars, Ganeshananthan and Verma for

themselves and on behalf of non-signing inventor Vladimir Petrovsky (Mr. Petrovsky), a petition and statement of last known address of the non-signing inventor, however, the supporting documentation (Email and mail transmittal) clearly reflected that only the oath/declaration with assignment, and not the entire application, (description, claims, abstract and drawings) were sent to the non-signing inventor and this fails to satisfy the requirements of law (statutes and regulations (see: the guidance in the Commentary at MPEP §409 et seq.). Petitioner was respectfully requested to clarify the conflict between the statement and the documents, or, if necessary, review the guidance in the Commentary at MPEP §409 et seq., and move stepwise to satisfy those requirements—and the petition was dismissed on 27 March, 2008.

On 17 June, 2008, Petitioner filed a renewed petition and averred the address of Mr. Petrovsky at "the University of Missouri—Rolla," however, effective January 2008, the institution became Missouri University of Science and Technology, and a search of its website indicated that Mr. Petrovsky might no longer be associated with it. Petitioner was to clarify the matter on any renewed petition. Should Petitioner be unable to do so, Petitioner was to make the appropriate search, and the entire application was be sent to Mr. Petrovsky pursuant to the Rule and the guidance in the Commentary at MPEP §409.03, and §409.03(a) et seq. The incompleteness of the record compelled dismissal on 1 December, 2008.

On 27 February, 2009, Petitioner filed a petition with, *inter alia*, Petitioner's statement (with documentary support) that indicates that the oath/declaration and the entire application (description, claims, abstract, drawings) were sent to Mr. Petrovsky without success in the effort to obtain his signature on the oath/declaration in compliance with 35 U.S.C. §115 and §116; and provided a statement of the last known address of the non-signing inventor (with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address of the non-signing inventor)—all with a showing that the non-signing inventor had failed, and therefore constructively refused, to sign/join in the application.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

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(a) is **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

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

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

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

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

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DR, VLADIMIR PETROVSKY
EONITE INC.
1808 FARNDON AVENUE
LOS ALTOS, CA 94024

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Schaevitz, et al. : COMMUNICATION
Application No. 11/888,943 :
Filed: 3 August, 2007 :
Attorney Docket No. 103667-0007-101

Dear Dr. Vladimir Petrovsky:

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

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

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

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

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

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office can 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:
ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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

§1.2 Business to be transacted in writing.

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

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: James MacPherson	: DECISION ON REQUEST FOR
Patent Number	: 7610232	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/888,965	: 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 **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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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of
Michael A. Sheha, et al.
Application No. 11/888,992
Filed: August 2, 2007
Attorney Docket No. 513162000410

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed April 22, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **NETWORKS IN MOTION, INC.**
6A, LIBERTY, 2ND FLOOR
ALISO VIEJO, CA 92656

UNITED STATES PATENT AND TRADEMARK OFFICE

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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. 11/889,014	:	NOTICE
Filed: August 8, 2007	:	
Attorney Docket No. 1617-0104PUS3	:	

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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JUN 17 2010

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
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In re Application of	:	
Per Kristian EIDE	:	
Application No. 11/889,014	:	NOTICE
Filed: August 8, 2007	:	
Attorney Docket No. 1617-0104PUS3	:	

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

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PO BOX 747
FALLS CHURCH VA 22040-0747

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MAR 10 2010

OFFICE OF PETITIONS

In re Application of :
Per Kristian EIDE :
Application No. 11/889,015 : NOTICE
Filed: August 8, 2007 :
Attorney Docket No. 1617-0104PUS2 :

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
Petitions Examiner
Office of Petitions

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FALLS CHURCH VA 22040-0747

MAILED

MAY 07 2010

OFFICE OF PETITIONS

In re Application of :
Per Kristian EIDE :
Application No. 11/889,015 : NOTICE
Filed: August 8, 2007 :
Attorney Docket No. 1617-0104PUS2 :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The Office acknowledges the Request for Refund dated April 20, 2010. A refund of $590 will be credited to Deposit Account No. 02-2448, as requested.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/889,047	08/08/2007	Takayuki Miyajima	132654	9280

7590 07/16/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
DORVIL, RICHEMOND	

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
07/16/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 07/16/2009 BPOWELL
08/09/2007 CHGOYLEN2 00000050 11889047
02 FC:1111 -300.00 DP
04 FC:1201 -200.00 DP

Begin. Ref: 07/16/2009 BPOWELL 00103/0500
CNB:140112 Name/Number:11898195
FC: 9204 $420.00 CR

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APR 15 2009

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of
Naotaka Kakisaka et al.
Application No. 11/889,069
Filed: August 8, 2007
For: DEVICE AND METHOD FOR CONTROLLING AN AUTOMATIC TRANSMISSION

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed April 8, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

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

The request to participate in the PPH pilot program and petition fail to include: (3) Claims of the U.S. Application that sufficiently correspond to the allowable claims of the JPO application. Specifically, other than the elimination of means language from the Japanese claims, there are other minor, but significant, wording differences in claims 1, 6, and especially 10. The inclusion of additional dependent claims 2-4, 7-9, and 11 that recite claims of different scope than those recited in the Japanese application, as well as the inclusion of method claims 13-14 that were likewise not recited in the Japanese application, results in the claims of this application not substantially corresponding to that of the Japanese application.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn. All replies to a decision to dismiss must be submitted by EFS-Web using the document description "Petition to make special under Patent Prosecution Highway."

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 4/14/09

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MAY 19 2009

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Naotaka Kakisaka et al. Application No. 11/889,069 Filed: August 8, 2007 For: DEVICE AND METHOD FOR CONTROLLING AN AUTOMATIC TRANSMISSION	:	**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 May 15, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

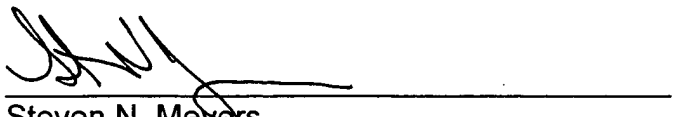
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation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

In light of renewed petition, which included a second preliminary amendment, 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: 5/18/09

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AUG 27 2009

OFFICE OF PETITIONS

Robert W.B. Bailey
Box 2, Station L
Winnipeg MB R3H 0Z4 CA CANADA

In re Application of :
Monte B. Raber :
Application No. 11/889,088 : DECISION ON PETITION
Filed: August 9, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 422-2US : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 3, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a birth certificate of the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ron Abelson at 571-272-3165 or the undersigned at 571-272-7099.

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 2831 for action on the merits commensurate with this decision.

/Ramesh Krishnamurthy/

for David Bucci
Petitions Examiner
Office of Petitions

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
Isao TATEBAYASHI, et al. :
Application No. 11/889,115 : DECISION GRANTING PETITION
Filed: August 9, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **LSN-160-554** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 15, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2831 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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C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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APR 27 2010

OFFICE OF PETITIONS

In re Application of :
Kenji Rikimaru et al :
Application No. 11/889,185 : ON PETITION
Filed: August 9, 2007 :
Attorney Docket No. 06-50539

This is a decision on the petition, filed April 27, 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 2, 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 2874 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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ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of :
Torii, Katsuya :
Application No. 11/889,196 : ON PETITION
Filed: August 9, 2007 :
Attorney Docket No. MNL-2018-1775 :

This is a decision on the petition under 37 CFR 1.181, filed August 17, 2009, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely and properly reply to the Office action mailed January 8, 2009, which set a shortened statutory period for reply of three (3) months. A reply was due on or before April 8, 2009. A Notice of Abandonment was mailed on August 4, 2009.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on April 8, 2009 of 1. Amendment; and 2. Credit Card Payment form in the amount of $440.00. Additionally, petitioner has supplied a copy of the previously mailed correspondence.

Further, petitioner states that the Advisory Action issued by the Examiner on April 30, 2009 was erroneous in view of the fact that application was under a *non-final* rejection rather than a *final* rejection. In the Interview Summary dated May 8, 2009, the Examiner states, "Examiner and Applicant's representative discussed the alleged finality of the Office Action sent on 1/8/2009. Upon Examiner reviewing the 326 form, the office action as clearly a non-final office action. *In view of this finding, the advisory action sent on 4/30/2009 is hereby vacated.*"

The reply acknowledged as having been received in the USPTO on April 8, 2009 is of record. Further, it is clear that the Office action of January 8, 2009 was a non-final Office Action. Accordingly, the amendment received on April 8, 2009 was a proper and timely reply.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3747 for further examination on the merits.

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

Liana Walsh/
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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FEB 27 2009

OFFICE OF PETITIONS

Applicant: Umana et al.
Appl. No.: 11/889,215
Filing Date: August 9, 2007
Title: ANTIGEN BINDING MOLECULES THAT BIND EGFR, VECTORS ENCODING SAME, AND USES THEREOF
Attorney Docket No.: 1975.0430004/TJS/T-M
Pub. No.: 2008/0095770 A1
Pub. Date: April 24, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on June 24, 2008 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in listed sequences.

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

The patent application publication was published with single character errors in certain sequences. Each disclosed sequence is listed in the publication twice, once in the detailed description and again at the sequence listing starting at page 62 of the publication. While certain errors are present in the detailed description, the sequence listing accurately states the sequences. Further note that the sequences also appear correctly in continuation application 11/892,010 published as U.S. Patent Application Publication U.S. 2008/0286277 A1.

In view of the above facts, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to

[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).

enforce upon issuance of a patent. The errors also do not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

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

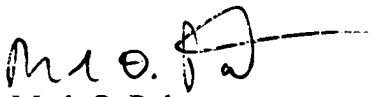
Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

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

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

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

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



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

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

MAY 11 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
JEON, BYEONG MOON
Application No. 11/889,259
Filed: August 10, 2007
For: **METHOD OF DECODING A BI-PREDICTIVE IMAGE BLOCK**

: DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed April 07, 2010.

Applicants request a second period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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APR 16 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
JEON, BYEONG MOON :
Application No. 11/889,260 : DECISION ON REQUEST
Filed: August 10, 2007 :
For: **METHOD OF DECODING A CURRENT IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed March 10, 2010.

Applicants request a second period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

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(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

John LeGuyader
for

Wanda L. Walker, Director
Technology Center 2600
Communications

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

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SEP 03 2009

OFFICE OF PETITIONS

In re Application of :
Mark H. Johnston et al. :
Application No. 11/889,294 :
Filed: August 10, 2007 : DECISION ON PETITION
Attorney Docket No. JOHNSTON=1E :
Title of Invention: HEATED CATHETER :
USED IN CRYOTHERAPY :

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO ACCEPT APPOINTMENT OF POWER OF ATTORNEY", filed June 24, 2009 and which is being treated pursuant to 37 CFR 1.181.

The application was filed on August 10, 2007 with a Transmittal identifying it as a continuation of Application No. 10/352,266 and a declaration naming and executed by Mark H. Johnston and Jennifer B. Cartledge as joint inventors. The application filed by CONNOLLY BOVE LODGE & HUTZ LLP 1990 M Street, N.W., Suite 800 Washington, DC 20036-3425 was not filed with a Power of Attorney but noted the correspondence address to be that of customer # 30678 (customer # for CONNOLLY BOVE LODGE & HUTZ).

A Revocation and Power of Attorney as well as change of correspondence address, signed by Mark H. Johnston and appointing Attorneys associated with customer # 01444 [BROWDY AND NEIMARK, P.L.L.C.] was filed June 25, 2008. In response thereof, a LETTER REGARDING IMPROPER POWER OF ATTORNEY was filed July 2, 2008 by CONNOLLY BOVE LODGE & HUTZ LLP arguing that the June 25, 2008 Revocation and Power of Attorney and change of correspondence address was improper since it was not signed by Joint Inventor Cartledge and for that reason, the Office mailed a NOTICE REGARDING POWER OF ATTORNEY noting that the Power of Attorney filed 06/25/2008 was not accepted since the signature of Jennifer B. Cartledge, a co-inventor in this application, has been omitted. The Notice further stated that "[t]he Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor."

Petitioners argue that by assignment recorded at Reel 013714/Frame 0553,Jennifer Cartledge assigned her rights in parent application 10/352,266 to CryMed Technologies, Inc. ("Crymed") on January 27, 2003 and that by virtue of a 1997 Licensing Agreement between Mark Johnston and Fiber Tech Medical, Inc. ("Fiber Tech"), he "shall control the filing and prosecution of the Patent Rights". Petitioner argues that CSA Medical, Inc. ("CSA Medical") is a successor-in-interest to Fiber Tech and that "Crymed" changed its name to "CSA Medical".

Mark H. Johnston therefore by and through BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303 filed the instant petition, requesting that joint inventor Mark H. Johnston be permitted to appoint the Attorneys of Record in this application.

Irrespective of the fact that no such Licensing Agreement with Mark H. Johnston as the Licensor has been made a part of the record, the petition is hereby **GRANTED** to the extent that BROWDY AND NEIMARK, P.L.L.C. is accepted as powers of attorney for Mark H. Johnston. This power of attorney does not apply to inventor Jennifer B. Cartledge.

In order to ensure that all interests are properly and effectively represented, **all further correspondence to the Patent and Trademark Office (Office), including any correspondence with respect to any further prosecution of this application must be signed by representatives representing each entities interests, ie. Browdy et al. for Mark H. Johnston, as named in the Power of Attorney submitted June 25, 2008. As well, if assignee CSA Medical chooses to be represented by Connolly et al., a Power of Attorney will need to be filed to that affect.**

Each attorney or agent signing subsequent papers must indicate whom he or she represents and all parties are reminded that dual correspondence is not permitted, and will not be undertaken by this Office.

The Office will continue to conduct correspondence with the attorneys first named in the application, Connolly et al., at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. *See*, Manual of Patent Examining Procedure ("MPEP") 402.10.

It is noted that, notwithstanding this Decision, the inventors may still jointly appoint or revoke power of attorney.

This application is being forwarded to Technology Center 3739 for examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/889,330	08/10/2007	Hirohisa Naito	1341.1525	1679

7590 10/10/2008

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
BERMAN, BRIAN J	
ART UNIT	**PAPER NUMBER**
3688	
MAIL DATE	**DELIVERY MODE**
10/10/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

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JUN 03 2008

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

In re Application of	:	
Hug, et al.	:	
Application No. 11/889,344	:	DECISION
Filed/Deposited: 10 August, 2007	:	
Attorney Docket No. 40424-246841	:	

This is a decision on the "Petition Under 37 C.F.R. §1.53(e) Alternatively §1.57(a) ..." filed on 6 November, 2007, and all properly considered and resolved 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 10 August, 2007.

On 24 September, 2007, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Nonprovisional Application (including therein a Notice to File Missing Parts (*inter alia* oath/declaration, fees), and indicated therein that the application had not been accorded a filing date because it had been deposited without drawings 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 drawing/figure was present 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 drawing; or

- submit the drawing and accept the date of that submission as the filing date.

OIPE set a two- (2-) month period for reply.

On 6 November, 2007, Petitioner submitted the instant petition, including therewith, *inter alia*, what is averred to be a true copy of FIG. 1 described in the specification and averred to be present on deposit on 10 August, 2007, along with a copy of Petitioner's date-stamped ("081007") receipt card.

ANALYSIS

A search of the official file reveals that:

- on 10 August, 2007, Petitioner deposited the instant application;

- the Office record appears, as discussed hereinabove, to have reflected that the drawing/figure, FIG. 1 described in the specification, was missing upon deposit;

- the date-stamped receipt card evidences—in pertinent part—the following:

***

x Drawings (1 Sheet, Fig. 1) (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 18 pages of specification (description, claims and abstract) and 1 sheet of drawings, was deposited with the Office on 10 August, 2007, and one sheet of drawings, FIG. 1 described in the specification, subsequently was misplaced in the Office.

Accordingly, the application, including 18 pages of specification (description, claims and abstract) and 1 sheet of drawings including sheet FIG. 1, is entitled to a filing date of 10 August, 2007.

The Notice mailed 24 September, 2007, was sent in error to the extent that it reflected the omission of FIG. 7 described in the specification, and is hereby **vacated** to the extent that it stated that the application was filed without FIG. 1 described in the specification.

CONCLUSION

The petition is **granted**; the petition fee waived and is being refunded to Deposit Account 22-0261—should Petitioner later find that a fee 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 10 August, 2007, for the entire application including 18 pages of specification (description, claims and abstract) and one (1) sheet of drawings (FIG.1) , with pages 1-18 of the specification (description, claims, abstract), and 1 sheet of drawings (FIG. 1) described in the specification, using:

- **18 pages of specification (description, claims abstract) deposited on 21 May, 2007; and**
- **One (1) sheets of drawings (FIG. 1) deposited on 6 November, 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 10 August, 2007, and reflecting therein that 18 pages of specification (description and claims) and 1 sheets of drawings (FIG. 1) 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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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Irving Hu	: DECISION ON REQUEST FOR
Patent Number	: 7597674	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/889,379	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **129** 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.
11/889,385	08/13/2007	Yoshihito Ishibashi	09812.0539-01	1922

EXAMINER

7590 08/20/2009

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

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
08/20/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
08/21/2009 NFARMER 0000168407

CHECK Refund Total: $500.00

Adjustment date: 08/21/2009 NFARMER
08/14/2007 CNGUYEN2 00000027 11889385
02 FC:1111 -500.00 OP

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/889,434	08/13/2007	Einat Nosovitsky	133078	2664

7590 03/21/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
03/21/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
03/23/2009 NFARMER 0000166586

CHECK Refund Total: $1250.00

Adjustment date: 03/23/2009 NFARMER
08/14/2007 CNGUYEN2 00000054 11889434
02 FC:1111 -500.00 OP
04 FC:1201 -600.00 OP
05 FC:1202 -150.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/889,436	08/13/2007	Nir Tasher	133079	2698

7590 03/21/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
NGUYEN, HOAI AN D	

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
03/21/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
03/23/2009 NFARMER 0000166585

CHECK Refund Total: $2800.00

Adjustment date: 03/23/2009 NFARMER
08/14/2007 CNGUYEN2 00000056 11889436
02 FC:1111 -500.00 OP
04 FC:1201 -1200.00 OP
05 FC:1202 -1100.00 OP

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LEE & MORSE, P.C.
3141 Fairview Park Drive
Suite 500
Falls Church, VA 22042

COPY MAILED

MAY 20 2009

OFFICE OF PETITIONS

In re Application of
Won-sun Kim, et al.
Application No. 11/889,455
Filed: August 13, 2007
Attorney Docket No. 275/047

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 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 Susan S. Morse 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: **Won-sun Kim**
946-1708, 9-danji Lotte APT
Yeongtong-dong, Yeongtong-gu
Suwon-si, Gyeonggi-do
Republic of Korea

cc: **Michael A. Cantor**
CANTOR COLBURN, LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/889,455	08/13/2007	Won-sun Kim	275/047

CONFIRMATION NO. 2015

POWER OF ATTORNEY NOTICE

27849
LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

Date Mailed: 05/20/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/13/2009.

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

MAILED

JUN 11 2010

OFFICE OF PETITIONS

In re Application of :
Benjamin Wayne :
Application No. 11/889,586 :
Filed: August 14, 2007 :
Attorney Docket: 044059-000003 :

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 17, 2010.

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

A review of the file record indicates that Nixon Peabody, LLP was revoked as power of attorney by the assignee of the patent application on May 3, 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.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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WILSON, SONSINI, GOODRICH & ROSATI
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PALO ALTO CA 94304-1050

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of :
Benjamin Wayne :
Application No. 11/889,586 :
Filed: August 14, 2007 :
Attorney Docket No. 044059-000003 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 21, 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 November 22, 2009. A Notice of Abandonment was mailed March 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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.

Further, the Power of Attorney filed May 3, 2010, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2448 for further examination on the merits.

Carl Friedman
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/889,586	08/14/2007	Benjamin Wayne	044059-000003

CONFIRMATION NO. 3181

21971
WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

POA ACCEPTANCE LETTER

OC000000042049203

Date Mailed: 06/11/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/03/2010.

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

/atkelley/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/889,586	08/14/2007	Benjamin Wayne	044059-000003

CONFIRMATION NO. 3181

POWER OF ATTORNEY NOTICE

22204
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

OC000000042049202

Date Mailed: 06/11/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/03/2010.

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

/atkelley/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/17/10

TO SPE OF : ART UNIT 2448

SUBJECT : Request for Certificate of Correction for Appl. No.: 11889627 Patent No.: 7685243

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9[illegible]

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

[signature]
SPE

2448
Art Unit

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United States Patent and Trademark Office
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WALTER OTTESEN
PO BOX 4026
GAITHERSBURG MD 20885-4026

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Andreas Obrebski	:	
Application No. 11/889686	:	DECISION DISMISSING
Filing or 371(c) Date: 08/15/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(b)
OPHTHALMOSCOPIC ATTACHMENT	:	
MODULE AND SURGICAL MICROSCOPE	:	
HAVING AN OPHTALMOSCOPIC	:	
ATTACHMENT MODULE	:	

This is in response to the Petition Under 37 CFR § 1.47(b), filed December 27, 2007, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

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(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 15, 2007, without an executed oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") on September 7, 2007, requiring, *inter alia*, a fully executed oath or declaration.

In response to the Notice, Applicant files the present petition and, in relevant part, an unexecuted Declaration; an English language translation of a copy of letter sent to the nonsigning inventor at his last known address, which included a copy of the application; a statement putatively establishing the proprietary interest of Petitioner; an English language translation of an Invention Notification describing the application by the nonsigning inventor to Carl Zeiss Surgical GmbH, and a statement of irreparable harm.

A review of Office records reveals that no assignment of the invention has been recorded in this Office, nor has Applicant provided a Statement under 37 CFR 3.73(b).

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (2) and (5) as set forth above.

As to item (2), the oath/declaration is unexecuted. The MPEP states the following:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

An acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116, is required.

As to item (5), Applicant failed to show or provide proof that Carl Zeiss Surgical GmbH, or anyone other than the inventor, has sufficient proprietary interest in the subject matter to justify the filing of the application (*see* MPEP 409.03(f)). Acceptable proof would include a copy of an assignment of the invention by the inventor to the Rule 47(b) applicant; a copy of proof that the inventor has agreed in writing to assign the invention to the applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent

jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant. The MPEP provides:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. (Emphasis supplied).
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in

the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the

United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record. (Emphasis supplied).

MPEP 409.03(f).

Here, Office records reveal that no assignment has been recorded for this application. Applicant has submitted a copy of an Invention Disclosure Form, where the inventor disclosed the invention to Carl Zeiss Surgical GmbH. The Invention Disclosure Form which indicates only that the inventor disclosed the invention to Carl Zeiss Surgical GmbH. Absent a copy of an assignment, or a copy of proof that the inventor has agreed in writing to assign the invention to the applicant, Applicant must provide a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

By mail:	Mail Stop PETITIONS Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WALTER OTTESEN
PO BOX 4026
GAITHERSBURG MD 20885-4026

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
Andreas Obrebski :
Application No. 11/889686 : DECISION DISMISSING
Filing or 371(c) Date: 08/15/2007 : PETITION UNDER
Title of Invention: : 37 CFR 1.47(b)
OPHTHALMOSCOPIC ATTACHMENT :
MODULE AND SURGICAL MICROSCOPE :
HAVING AN OPHTALMOSCOPIC :
ATTACHMENT MODULE :

This is in response to the Petition Under 37 CFR § 1.47(b), filed April 11, 2008, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

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(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 15, 2007, without an executed oath or declaration. In response, this Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") on September 7, 2007, requiring, *inter alia*, a fully executed oath or declaration.

In response to the Notice, Applicant filed a petition on December 27, 2007 and, in relevant part, an unexecuted Declaration; an English language translation of a copy of letter sent to the nonsigning inventor at his last known address, which included a copy of the application; a statement putatively establishing the proprietary interest of Petitioner; an English language translation of an Invention Notification describing the application by the nonsigning inventor to Carl Zeiss Surgical GmbH, and a statement of irreparable harm.

A review of Office records revealed that no assignment of the invention had been recorded in this Office, nor had Applicant provided a Statement under 37 CFR 3.73(b).

The petition was dismissed in a Decision mailed April 11, 2008. The Decision dismissing the petition required an in compliance with 35 U.S.C. §§ 115 and 116, and 37 CFR 1.63 and 1.64 or 1.175, executed by a person authorized to act on behalf of the corporation. The Decision also required proof that Carl Zeiss Surgical GmbH, has sufficient proprietary interest in the application to justify the filing of the application.

The present renewed petition

Applicant files the present renewed petition and an oath/declaration executed by a member of the Board of Carl Zeiss Surgical GmbH, along with a legal memorandum in accordance with MPEP 409.03(f).

Applicable Law

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (2) as set forth above.

As to item (2), the oath/declaration is executed by a member of the Board.

37 CFR 3.73(b)(2) states: "The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee."

The MPEP § 324 explains as follows:

> V. PARTY WHO MUST SIGN
> The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):
> (A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of

directors. In foreign countries, a person who holds the title "Manager" or "Director" is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.

Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required. (Emphasis supplied).

An acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116, is required.

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

By mail: Mail Stop PETITIONS
Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WALTER OTTESEN
PO BOX 4026
GAITHERSBURG MD 20885-4026

COPY MAILED

NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Andreas Obrebski	:	
Application No. 11/889686	:	DECISION GRANTING
Filing or 371(c) Date: 08/15/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(b)
OPHTHALMOSCOPIC ATTACHMENT	:	
MODULE AND SURGICAL MICROSCOPE	:	
HAVING AN OPHTALMOSCOPIC	:	
ATTACHMENT MODULE	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR § 1.47(b), filed September 22, 2008, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Andreas Obrebski, refuses to join in the application.

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

The application file is being referred to Technology Center Art Unit 2873 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

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

DR. ANDREAS OBREBSKI
MAX-PLANCK-STRASSE 17
73447 OBERKOCHEN
FEDERAL REPUBLIC OF GERMANY

COPY MAILED

NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Andreas Obrebski	:	
Application No. 11/889686	:	LETTER
Filing or 371(c) Date: 08/15/2007	:	
Title of Invention:	:	
OPHTHALMOSCOPIC ATTACHMENT	:	
MODULE AND SURGICAL MICROSCOPE	:	
HAVING AN OPHTALMOSCOPIC	:	
ATTACHMENT MODULE	:	

Dear Dr. Obrebski:

You are named the 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 inventor.

As the 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/
Derek L. Woods
Attorney
Office of Petitions

CC: WALTER OTTESEN
PO BOX 4026
GAITHERSBURG MD 20885-4026

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.
11/889,758	08/16/2007	Akinori Hirano	2018-1778	4556

7590 08/06/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
SCHNEIDER, CRAIG M	

ART UNIT	PAPER NUMBER
3753	

MAIL DATE	DELIVERY MODE
08/06/2009	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

Refund Ref:
08/07/2009 0030073098

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX2021

Adjustment date: 08/07/2009 NFARMER
08/17/2007 JADD01 00000023 11889758
02 FC:1111 -500.00 OP

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

Patent No. : 7,481,698
Inventor(s) : Yamada et. al.
Issued : December 1, 2009
Title : SINTERED RARE EARTH MAGETICK ALLOY WAFER SURFACE GRINDING MACHINE
Docket No. : 12065-0003D2

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

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

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

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

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

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

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
571 272-0470

CLARK & BRODY
1090 VERMONT AVENUE, NW, SUITE 250
WASHINGTON, DC 20005
[RMJ]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Eli Einbinder

Application No. 11889932

Filed: August 17,2007

Attorney Docket No. Einbinder

: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 21-JUL-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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MAILED

MAY 04 2010

OFFICE OF PETITIONS

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

In re Application of :
Argaw Kidane et al :
Application No. 11/889,964 : ON PETITION
Filed: August 17, 2007 :
Attorney Docket No. 029363.00028

This is a decision on the petition, filed May 3, 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 7, 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 1616 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

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

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Application of :
Argaw Kidane et al :
Application No. 11/889,985 : ON PETITION
Filed: August 17, 2007 :
Attorney Docket No. 029363.00031

This is a decision on the petition, filed May 3, 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 12, 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 1616 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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United States Patent and Trademark Office
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MAILED

JAN 27 2010

OFFICE OF PETITIONS

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENE NW
WASHINGTON DC 20005

In re
Tice, et al.
Application No. 11/889,988
Filed: August 17, 2007
Attorney Docket No.
2584.0020002/RWE/RAS

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 3, 2009.

The fee deficiency submission under 37 CFR 1.28 of $1240 is hereby **accepted.**

The change of status to large entity has been entered.

The application is being forwarded to Group Art Unit 1633 for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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JAN 28 2010

OFFICE OF PETITIONS

Muncy, Geissler, Olds & Lowe, PLLC
P.O. BOX 1364
FAIRFAX VA 22038-1364

In re Application of	:	
Werner Mueller	:	
Application No. 11/889,993	:	DECISION ON PETITION
Filed: August 17, 2007	:	
Attorney Docket No. 1025/0101PUS1	:	

This is a decision on the petition under 37 CFR 1.59(b), filed August 14, 2009, to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that a document entitled miscellaneous documents, filed July 2, 2009, 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 of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Anthony G. Phillips
P.O. Box 723
Suffield CT 06078

COPY MAILED

OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Phillips :
Application No. 11/890,015 : ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. N/A :
For: MEDICAL DEVICE FOR A USER'S LIMB

This is a decision on the petition, filed August 27, 2007, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed August 20, 2007. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on August 3, 2007. On August 20, 2007, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figures 5 and 6 were missing from the application filed on August 3, 2007.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figures 5 and 6 be accorded a filing date of August 3, 2007 on the basis that they were received in the Patent and Trademark Office (PTO) on August 3, 2007.

In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing August 3, 2007 as the date of receipt. The postcard lists that the filing included, *inter alia*, 3 sheets of drawings. A review of the application file reveals that there are 2 sheets present, those sheets depicting Figures 1,2 3, and 4.

The return postcard constitutes *prima facie* evidence that 3 sheets of drawings, including missing Figures 5 and 6, were filed on August 3, 2007. MPEP 503. Accordingly, the request is **granted**.

Pursuant to petitioner's authorization, the $400.00 fee submitted with the instant petition will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Patent Application Processing for further processing with a filing date of **August 3, 2007,** using the copy of Figures 5and 6 supplied with the petition. Petitioner has shown that Figures 5 and 6 were filed on August 3, 2007.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN BRUCKNER, P.C.
P.O. BOX 490
FLAGSTAFF AZ 86002

COPY MAILED
DEC 16 2008

In re Application of :
Barker, et al. : DECISION ON PETITION
Application No. 11/890,026 :
Filed: August 2, 2007 :
Docket No.: AUROR1170-1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 25, 2008.

The Notice of Abandonment mailed June 27, 2008 indicates that the application is abandoned for failure to timely reply to the non-final Office action mailed December 13, 2007.

Petitioners assert that a response to the non-final Office action was timely submitted on June 13, 2008 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated June 18, 2008 acknowledging receipt of applicants' response to the non-final Office action. Further, the copy of the reply submitted herewith bears a certificate of mailing date of June 13, 2008 in accordance with 37 CFR 1.8.

The reply to the non-final Office action (including three month extension of time) filed June 18, 2008 has been located in the official application file.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Group Art Unit 2613 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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MCCARTER & ENGLISH, LLP
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

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AUG 23 2007

OFFICE OF PETITIONS

In re Application of :
JOHNSON, et al. :
Application No. 11/890,044 : DECISION ON PETITION
Filed: August 3, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 33472/1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 3, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the birth certificate of inventor William F. Coyle, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3692 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

Jackson Walker LLP
901 Main Street
Suite 6000
Dallas, TX 75202-3797

COPY MAILED

JUL 24 2008

In re Application of	:	
Terry L. Ferrell	:	
Application No. 11/890,072	:	DECISION ON PETITION
Filed: August 3, 2007	:	TO WITHDRAW
Attorney Docket No. 130410.00012	:	FROM RECORD
	:	

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 3, 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 Robert C. Klinger on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Terry L. Ferrell**
6399 Morningstar Drive
Apt. 201
The Colony, TX 75056

cc: **Stewart Clancy**
Nexplore Corporation
26010 Network Blvd, Suite 208
Frisco, TX 75034

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/890,072	08/03/2007	Terry L. Ferrell	130410.00012

CONFIRMATION NO. 6822

POWER OF ATTORNEY NOTICE

25555
JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS, TX 75202-3797

Date Mailed: 07/23/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/tswilliams/

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

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Jackson Walker LLP
901 Main Street
Suite 6000
Dallas, TX 75202-3797

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Terry L. Ferrell, et al.	:	
Application No. 11/890,092	:	DECISION ON PETITION
Filed: August 3, 2007	:	TO WITHDRAW
Attorney Docket No. 130410.00008	:	FROM RECORD
	:	

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 3, 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 Robert C. Klinger 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: **Terry L. Ferrell**
6399 Morningstar Drive
Apt. 501
The Colony, TX 75056

cc: **Stewart Clancy**
Nexplore Corporation
2601 Network Blvd, Suite 208
Frisco, TX 75034

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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
11/890,092	08/03/2007	Terry L. Ferrell	130410.00008

CONFIRMATION NO. 6660

POWER OF ATTORNEY NOTICE

25555
JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS, TX 75202-3797

Date Mailed: 08/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/tswilliams/

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED

JUN 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Martin Vorbach et al. :
Application No. 11/890,094 : ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. 2885/104 :

This is a decision on the petition under 37 CFR 1.182, filed March 22, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Martin Vorbach
2. Frank May
3. Armin Nückel

Our records have been updated and a corrected Filing Receipt, which sets forth the changes as requested. A copy will be attached to this decision.

The order of the inventors are listed according to the oath and declaration that is filed in the application. The inventors were listed as shown in the oath and declaration filed on August 3, 2007.

As authorized the petition fee of $400 will be charged to petitioner's deposit account.

This application is being forwarded to the Technology Center for further processing.

Telephone inquiries regarding this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/890,094	08/03/2007	2114	500	2885/104	9	2

CONFIRMATION NO. 6496

CORRECTED FILING RECEIPT

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Date Mailed: 06/30/2010

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)

Martin Vorbach, Munchen, GERMANY;
Frank May, Munchen, GERMANY;
Armin Nuckel, Neupotz, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/967,497 09/28/2001 PAT 7,266,725

Foreign Applications

GERMANY 101 42 904.5 09/03/2001
GERMANY 101 44 733.7 09/11/2001

If Required, Foreign Filing License Granted: 07/09/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/890,094**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method for debugging reconfigurable architectures

Preliminary Class

714

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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701 FIFTH AVENUE
SEATTLE WA 98104

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NOV 16 2007

OFFICE OF PETITIONS

In re Application of
Victor John Smith et al.
Application No. 11/890,106
Filed: August 2, 2007
Attorney Docket No: BRET-1-0101

DECISION DISMISSING PETITION

This is a decision on the petition filed October 23, 2007, in response to the Notice to File Missing Parts mailed August 23, 2007 2006, which is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed August 2, 2007. However, on August 23, 2007, the Office of Initial Patent Examination mailed a Notice to File Missing Parts stating that the application had been accorded a filing date of August 2, 2007 but advised that Figures 4 and 11 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner argues that no figures were missing on August 2, 2007 and provides a copy of the drawings filed upon application and a postcard receipt date-stamped by the USPTO, although not itemized but which notes that the application included 49 pages, 14 of which were drawings. The drawings submitted with the petition are identical to the drawings of record having been filed with the original application papers.

After review of the materials filed upon application and those filed with the petition it appears that the specification contains an error in the description of drawings as it relates to Figures 4 and 11. While the label on the drawings reads 4A-4D there is no Figure 4. As well, while the label on the drawings reads 11A-11B, there is no Figure 11. Perhaps Figures 4A-4D make up the reference to "Figure 4" and Figures 11A-11B make up the reference in the specification to "Figure 11".

It seems obvious from the petition that no drawing was actually missing on August 2, 2007. Rather, the specification incorrectly referred to Figures 4 and 11 as a result of the applicants' filing error. However, the "Notice" mailed on August 23, 2007, was correct in stating that Figures 4 and 11 described in the specification

appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $400.00 petition was required upon filing of the petition. Thus, the $400.00 petition fee will not be refunded.

This matter is being referred to the Office of Patent Application Processing (OPAP) for further processing, using the application papers received in the Office on August 2, 2007.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JEFFREY J. KING, ESQ.
BLACK LOWE & GRAHAM PLLC
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SEATTLE WA 98104

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MAY 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Victor John Smith et al. :
Application No. 11/890,106 : DECISION DISMISSING PETITION
Filed: August 2, 2007 :
Attorney Docket No: BRET-1-0101 :

This is a decision on the request for reconsideration filed April 4, 2008, in response to the decision on petition mailed November 16, 2007 which is treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The application was filed August 2, 2007. However, on August 23, 2007, the Office of Initial Patent Examination mailed a Notice to File Missing Parts stating that the application had been accorded a filing date of August 2, 2007 but advised that Figures 4 and 11 described in the specification appeared to have been omitted. In response, a petition was filed October 23, 2007. Petitioner argued that no figures were missing on August 2, 2007 and provided a copy of the drawings filed upon application and a postcard receipt date-stamped by the USPTO, although not itemized but which noted that the application included 49 pages, 14 of which were drawings. The drawings submitted with the petition were identical to the drawings of record having been filed with the original application papers. Page 39 only included Figures 4A-4D and Page 44 only included Figures 11A-11B. Thus, it was determined that there was no Figure 4 or Figure 11 and that no drawings were actually missing on August 2, 2007. Rather, the specification incorrectly referred to Figures 4 and 11.

Since the Notice was correct in that Figures 4 and 11 appeared to have been omitted, the petition was dismissed in a decision mailed November 16, 2007, with instructions to process the application without Figures 4 and 11.

Comes now petitioner arguing that the instructions to the petitioner should have been to include replacement sheets adding the titles "Figure 4" and "Figure 11" at the tops of pages 39 and 44 in order to be consistent with the specification and to have the application processed with Figures 4 and 11.

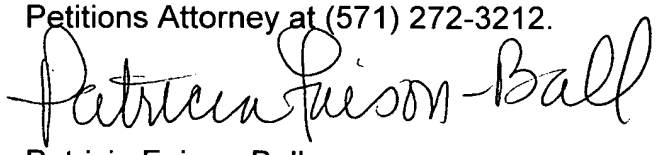
To the contrary, no Figures 4 and 11 were included with the application as filed or with the petition. With respect to the options given petitioner for correcting the file for filing date purposes, the instructions were proper. As indicated above the drawings were simply not consistent with the specification and post card receipt.

The figures are still mislabeled as a result of applicant's filing error and if it is petitioner's intention to include replacement sheets with a drawing figures labeled as "Figure 4" and "Figure 22", petitioner can file an amendment to the specification with respect to Figures 4 and 11, prior to the first Office Action in order to avoid future delays in the prosecution of the application.

As was indicated in the decision mailed November 16, 2007, the "Notice" mailed on August 23, 2007, was correct in stating that Figures 4 and 11 described in the specification appeared to have been omitted, the "Notice" was properly mailed and will not be withdrawn and therefore, the $400.00 petition fee will not be refunded.

This matter is being referred to the Office of Patent Application Processing (OPAP) for further processing, using the application papers received in the Office on August 2, 2007.

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



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WENDY W. KOBA
PO BOX 556
SPRINGTOWN, PA 18081

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
Vipulkumar Patel, et al. :
Application No. 11/890,123 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No. SIO-0131CON :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 5, 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 June 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 $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 2874 for appropriate action by the Examiner in the normal course of business on the reply received April 9, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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PARIN BHADRIK DALAL
681 BERKSHIRE PLACE
MILPITAS, CA 95035-7524

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Parin Bhadrik Dalal :
Application No. 11/890,131 : DECISION ON PETITION
Filed: August 4, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 10, 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 showing that the applicant's current state of health as required under MPEP § 708.02, Section III. 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 2195 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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PARIN BHADRIK DALAL
681 BERKSHIRE PLACE
MILPITAS, CA 95035-7524

MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of
Parin Bhadrik Dalal
Application No. 11/890,131
Filed: August 4, 2007
Attorney Docket No.

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

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.102(c)(1), filed April 10, 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 **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include does not include proper evidence. The evidence should be clearly stated in layman's terms indicating applicant's condition including the statement "that the applicant's health is such that he might not be available to assist in the prosecution of the application of it were to run its normal course" and should be on Office letterhead signed by a medical physician.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 2416 for action in its regular turn.

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

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WILLIAM C. FUESS
SUITE 2G
10951 SORRENTO VALLEY ROAD
SAN DIEGO, CA 92121-1613

COPY MAILED
DEC 10 2008

In re Application of :
Cornelius Diamond :
Application No. 11/890,134 : ON PETITION
Filed: August 2, 2007 :
Attorney Docket No. PRE 0025CIP :

This is a decision in response to the petition, filed September 18, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

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

The instant petition lacks items (1). The requisite additional claim fees have not been submitted nor is there an authorization to charge a fee deficient to a deposit account. As the claim fees increased, effective September 30, 2007, the fees submitted on September 18, 2008 should have been in the revised amount. Unfortunately, the fees have again increased. Therefore any fee amount paid on or after October 2, 2008 must be paid in the new revise amount.

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.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM C. FUESS
SUITE 2G
10951 SORRENTO VALLEY ROAD
SAN DIEGO, CA 92121-1613

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FEB 18 2010

In re Application of :
Cornelius Diamond :
Application No. 11/890,134 : ON PETITION
Filed: August 2, 2007 :
Attorney Docket No. PRE 0025CIP :

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 28, 2007. A Notice of Abandonment was mailed on June 11, 2008. On September 18, 2008, a petition under 1.137(b) was filed; however, the petition was dismissed in a decision mailed December 10, 2008. On December 29, 2009, the present petition was filed.

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

The instant petition lacks item (1). It is noted that the $25 fee for 11 total fees over 20 was paid on September 18, 2008; however, the $105 fee required for the 1 independent claim over 3 that was required in view of the fee increase of September 30, 2007 was not submitted. Petitioner submitted $100. Since the fee has further increased to $110, effective October 2, 2008, the fee is now deficient by $10. The petition cannot be granted until the balance of the requisite excessive fee is paid.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web1

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

MS. VICTORIA RAYLES
890 BUSH STREET # 301
SAN FRANCISCO CA 94108

COPY MAILED

AUG 2 6 2008

In re Application of :
Rayles, et al. :
Application No. 11/890,145 : DECISION
Filed: 2 August, 2007 :
Attorney Docket No. P0137 :

This is a decision on the petition19 November, 2007, seeking to revive the application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

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

The petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

As to Allegations of
Unavoidable Delay

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

Petitioner has failed to pay the (proper) petition fee and has failed to demonstrate unavoidable delay, however, as will be discussed below, the issue is mooted by the Office's express authorization for Petitioner to "disregard the previous notice mailed on 08/233/2007."

BACKGROUND

The record reflects as follows:

The Office mailed a Notice to File Missing Parts (oath/declaration, surcharge) on 23 August, 2007, with reply due absent extension of time on or before 23 October, 2007.

The Office mailed No Notice of Abandonment before the instant petition was filed.

On 19 November, 2007, Petitioner filed a reply (oath/declaration, surcharge) but instead of requesting and paying for a one- (1-) or two- (2-) or three- (3-) month extension of time as necessary, Petitioner inexplicably filed a petition to revive (though with insufficient fees paid) pursuant to 37 C.F.R. §1.137(a). The availability of extensions of time obviated the need for this petition, and the Office might have accepted the payment for the purpose of the extension of time rather than the petition, but it is not clear that sufficient funds were tendered for even this purpose. (The Office indeed refunded some fees, but it also is unclear whether those were sufficient to be reallocated.)

Petitioner's 19 November, 2007, reply was insufficient, however, the Office simply mailed a new Notice of Missing Parts (oath/declaration) on 4 June, 2008, setting a two- (2-) month period for reply, with reply thus due on or before 4 August, 2008, and the Office expressly authorize Petitioner to "disregard the previous notice mailed on 08/23/2007," and further stating that the reply period now ran "from the mail date of the new notice"—i.e., 4 June, 2008. And it appears that Petitioner replied to the 4 June, 2008, Notice on 14 July, 2008. Thereafter, the Office mailed a filing receipt on 1 August, 2008.

(It is noted that were the instant petition necessary, Petitioner's statement of unavoidable delay is insufficient, in that Petitioner avers that the co-inventor in question was on an around-the-world voyage and unavailable to sign the oath/declaration. Petitioner is reminded that the litmus test in such matters is that of *in re Pratt*,[1] to wit: Petitioner/Applicant must treat the instant matter with no less diligence than that directed to Petitioner/Applicant's most important business affairs. An applicant who removes him/herself from the ability to reply timely and properly to the Office without putting into place sufficient mechanisms to ensure compliance with reply requirements and/or other statutory and regulatory requirements has not satisfied his/her burdens and duties under *Pratt*. Moreover, were the instant petition necessary, Petitioner also failed to pay the proper fee therefor.

(Petitioner further is cautioned to review at each filing the fee schedule at the Office website (http://www.uspto.gov/main/howtofees.htm) for the proper amounts of all necessary fees then current and due at the time of submission.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office have a duty to inquire into the

[1] *In re Pratt*, 1887 Dec. Comm'r Pat. 31, (1887).

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

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

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. (*See*, for example: MPEP §711.03(c).) However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Petitioner failed to pay the petition fee and to make the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed as moot** and there appear to be no fees to be refunded in this regard.

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

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by OPAP in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected.

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/890,159	08/03/2007	Shin Kimura	450100-05144.2	6890

7590 08/27/2009
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER
LE, THU NGUYET T

ART UNIT	PAPER NUMBER
2162	

MAIL DATE	DELIVERY MODE
08/27/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Repln. Ref: 08/28/2009 BPOWELL 0012120100
DAD:500320 Name/Number:11890159
FC: 9204 $500.00 CR

Adjustment date: 08/28/2009 BPOWELL
08/07/2007 SSTN 01 00000090 11890159
[illegible] -500.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS TX 75265

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SEP 15 2009

OFFICE OF PETITIONS

In re Application of :
Dimitar T. TRIFONOV, et al :
Application No. 11/890,204 : DECISION ON PETITION
Filed: August 3, 2007 :
Attorney Docket No: TI-64524 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2009, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed March 24, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

This application is being referred to the Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/22/2010

Applicant	: Dimitar T. Trifonov	: DECISION ON REQUEST FOR
Patent Number	: 7605646	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/890,204	: 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 **38** 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

SHIRLEY L. CHURCH, ESQ.
P.O. BOX 81146
SAN DIEGO CA 92138

In re Application of :
Sun, et al. : DECISION REFUSING STATUS
Application No. 11/890,221 : UNDER 37 CFR 1.47(a)
Filed: August 2, 2007 :
Atty. Dkt. No.: AM-5120 P3 :
For: METHOD OF COATING :
SEMICONDUCTOR PROCESSING :
APPARATUS WITH PROTECTIVE :
YTTRIUM-CONTAINING COATINGS :

This decision is in response to the petition under 37 CFR 1.47(a) filed November 14, 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 August 2, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed August 22, 2007. The Notice required a surcharge and an executed oath or declaration.

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

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 a declaration and power of attorney were mailed to the non-signing inventor, and that to date, no response has been received. Petitioners also indicate that an attempt to contact the non-signing inventor by telephone was not successful. Petitioners further allege that Applied Materials, Inc. has made a "best effort" to find the non-signing inventor, but without success.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers. While the petition alleges "best effort" has been made to locate the non-signing inventor, no evidence or details concerning these efforts have been provided.

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 contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Further, the declaration is not properly paginated (to wit page 1 of 4, page 2 of 4, etcetera). Also, the declaration fails to identify the application by application number and filing date.

Any renewed petition should be accompanied by a newly executed oath or declaration in full compliance with 37 CFR 1.63 and 1.64 with the signature block of the non-signing inventor left unexecuted. *See* MPEP 409.03(b).

As to item (3), the required petition fee of $200.00 has been received.

As to item (4), the last known address of the non-signing inventor has 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.

Any renewed petition must set forth the last known address of the non-signing inventor.

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

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

By facsimile: (571) 273-8300

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
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Alexandria, VA 22313-1450
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MAR 21 2008

OFFICE OF PETITIONS

SHIRLEY L. CHURCH, ESQ.
P.O. BOX 81146
SAN DIEGO CA 92138

In re Application of	:
Sun, et al.	: DECISION REFUSING STATUS
Application No. 11/890,221	: UNDER 37 CFR 1.47(a)
Filed: August 2, 2007	:
Atty. Dkt. No.: AM-5120 P3	:
For: METHOD OF COATING	:
SEMICONDUCTOR PROCESSING	:
APPARATUS WITH PROTECTIVE	:
YTTRIUM-CONTAINING COATINGS	:

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed February 5, 2008.

The petition is GRANTED.

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

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

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

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

Telephone inquiries 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

Robert W.Wu
5722 Meadows Del Mar,
San Diego, CA 92130

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MAR 2 1 2008

OFFICE OF PETITIONS

In re Application of
Sun, et al.
Application No. 11/890,221
Filed: August 2, 2007
Atty. Dkt. No.: AM-5120 P3
For: METHOD OF COATING SEMICONDUCTOR PROCESSING APPARATUS WITH PROTECTIVE YTTRIUM-CONTAINING COATINGS

Dear Sir:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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JUL 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Ridley, et al. :
Application No. 11/890,304 : DECISION ON PETITION
Filed: August 3, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SHORP003 :

This is a decision on the petition, filed May 12, 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**.

Petitioners state that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 25, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of October 1, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center Art Unit 2617 for examination in due course.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/890,304	08/03/2007	Jeffrey Ridley	SHORP003

CONFIRMATION NO. 6698

21912
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

NONPUBLICATION RESCISSION LETTER

Date Mailed: 06/25/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/01/2009.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/swbrantley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fish & Richardson P.C.
PO Box 1022
Minneapolis, MN 55440-1022

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Kent C. Cochrum	:	
Application No. 11/890,321	:	DECISION ON PETITION
Filed: August 6, 2007	:	TO WITHDRAW
Attorney Docket No. 14004-005003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 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 Ronald C. Lundquist 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: **Kent C. Cochrum**
3480 Industrial Blvd, Suite 105
West Sacramento, CA 95691-5006

cc: **Crosslink-D, Inc.**
2510 Anza Avenue
Davis, CA 95616

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/890,321	08/06/2007	Kent C. Cochrum	14004-005003

CONFIRMATION NO. 8095

POWER OF ATTORNEY NOTICE

26191
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000036584669

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/19/2009.

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

/tswilliams/

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

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Application of
Jackman et al.
Application No. 11/890,326
Filed: August 6, 2007
Attorney Docket No. H0498.70085US01

: 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 February 3, 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 application data sheet 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 Charlema Grant at (571) 272-3215. 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 1783 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.

Christopher Bottorff
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/890,326	08/06/2007	1783	1000	H0498.70085US01	16	1

CONFIRMATION NO. 8115

CORRECTED FILING RECEIPT

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 06/14/2010

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

Applicant(s)

Rebecca J. Jackman, Boston, MA;
David C. Duffy, Cambridge, MA;
George M. Whitesides, Newton, MA;
Kathleen Vaeth, Rochester, NY;
Klavs F. Jensen, Lexington, MA;

Assignment For Published Patent Application

President and Fellows of Harvard College, Cambridge, MA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/694,074 10/20/2000 PAT 7,282,240
which is a CON of PCT/US99/08623 04/20/1999
which is a CIP of 09/063,742 04/21/1998 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 08/27/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/890,326**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Elastomeric mask and use in fabrication of devices

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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MICHAEL HOWARD STRENG
10325 STATE ROUTE 736
PLAIN CITY, OH 43064

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of
Michael H. Streng
Application No. 11/890,327
Filed: August 6, 2007
Attorney Docket No: None

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 27, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 27, 2008. A Notice of Abandonment was mailed on April 23, 2008. On May 12, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KEITH L. BOLLER
1226 MONTEGO ST
ARROYO CA 93420-2435

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Keith Luebkert BOLLER	:	
Application No. 11/890,341	:	DECISION ON PETITION
Filed: August 6, 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 October 8, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's driver license. Accordingly, the above-identified application has been accorded "special" status.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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12/10/09

Patent No. :7616319
Ser. No. :11/890354
Inventor(s) :John A. Woollam
Issued :11/10/09
Title :SPECTROSCOPIC ELLIPSMETER AND POLARIMETER SYSTEMS
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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

JAMES D. WELCH
10328 PINEHURST
OMAHA, NE 68124

HR

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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JUN 1 8 2008

In re Application of :
TARONE, Theodore T. et al. :
Application No. 11/890,357 : DECISION ON PETITION
Filed: August 06, 2007 : TO WITHDRAW
Attorney Docket No. **480102001401** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 05, 2008.

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

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER, LLP has been revoked by the assignee of the patent application on June 13, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

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Xidex Corporation
Suite 703
8906 Wall Street
Austin TX 78754

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DEC 0 5 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Mancevski, et al.
Application No. 11/890,405
Filed: August 6, 2007
Attorney Docket No. 2060-16151-US-DIV2
For: METHOD OF CALIBRATING A CALIPER AFM

This is a decision on the petition, filed October 17, 2008 (certificate of mailing date October 14, 2008), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **dismissed** and the merits of the petition will not be addressed because the petition is not signed by a proper party. No additional petition fee will be due when petitioners file a reconsideration petition.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Vladimir Mancevski. Vladimir Mancevski has not provided an attorney registration number and a review of Office records does not reveal that a person named Vladimir Mancevski has been assigned a registration number. Vladimir Mancevski has not shown that he is an authorized representative of an assignee who has right to take action.

In short, Vladimir Mancevski has not established that he is permitted to file amendments and other papers in this application on his own. It is noted that he is one of two joint inventors.

In any reconsideration petition, applicants are encouraged to file a reconsideration petition selecting **one** of the following courses of action: Either (a) submit Vladimir Mancevski's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee (if there is one) establishing ownership of the invention signed by a person authorized to act on behalf of the assignee (the person authorized to act on behalf of the assignee should be Vladimir

Mancevski and in this manner, the signature on instant petition will be ratified); or (c) submit another copy of the petition signed by both inventors.

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 concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Xidex Corporation
Suite 703
8906 Wall Street
Austin TX 78754

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JAN 13 2009

In re Application of :
Mancevski, et al. :
Application No. 11/890,405 : ON PETITION
Filed: August 6, 2007 :
Attorney Docket No. 2060-16151-US-DIV2 :
For: METHOD OF CALIBRATING A CALIPER AFM

This is a decision on the reconsideration petition, filed December 11, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **granted.**

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed June 4, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 5, 2008. A Notice of Abandonment was mailed on September 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 corrected drawings, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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DR. SEYMOUR C. YUTER
407 CEDAR DRIVE WEST
BRIARCLIFF MANOR, NY 10510

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Yuter, Seymour C. :
Application No. 11/890,409 : ON PETITION
Filed: August 6, 2007 :
Attorney Docket No. SY-120 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 6, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant, along with a copy of his passport. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, it will be referred to Technology Center Art Unit 3612 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Florian Deiseroth	: DECISION ON REQUEST FOR
Patent Number	: 7635822	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/890,413	: 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 **238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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VIC Y. LIN
MYERS, DAWES, ANDRAS AND SHERMAN
SUITE 1150
19900 MACARTHUR BLVD.
IRVINE, CA 92612

In re Application of	:	
Le et al.	:	DECISION ON PETITION
Application No. 11/890,419	:	TO WITHDRAW
Filed: August 6, 2007	:	FROM RECORD
Attorney Docket No. FLU1 PAU.40	:	

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 9, 2008.

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

A review of the file record indicates that on March 30, 2009 the power of attorney to Myers, Dawes, Andras and Sherman 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: Gordon & Rees LLP
101 West Broadway
Suite 1600
San Diego CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

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RG & ASSOCIATES
1103 TWIN CREEKS, SUITE. 120
ALLEN, TX 75013

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
BALAN, et al. :
Application No. 11/890,434 : DECISION ON PETITION
Filed: August 6, 2007 : TO WITHDRAW
Attorney Docket No. **INSPHERION.0010** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 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 Raffi Gostanian 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 correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **INSPHERION LEARINING COPORATION**
7920 BELT LINE ROAD, SUITE 530
DALLAS, TX 75254

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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/890,434
Filing Date	08/06/2007
First Named Inventor	Ramesh Balan
Art Unit	N/A
Examiner Name	N/A
Attorney Docket Number	Inspherion.0010

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☑ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number ☐

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Conduct on the part of the client has rendered the representation unreasonably difficult.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: ☐

OR

☑ Firm or Individual Name	Inspherion Learning Corporation				
Address	7920 Belt Line Road, Suite 530				
City	Dallas	State	TX	Zip	75254
Country	USA				
Telephone	214-789-4595/972-370-2955	Email	rameshb@inspherion.net		
Signature					
Name	Raffi Gostenian	Registration No.	42,595		
Date	1/9/08	Telephone No.	972.849.1310		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Cicchiello et al.	:	
Application No. 11/890,436	:	DECISION ON PETITION
Filed: August 6, 2007	:	
Attorney Docket No. NORTE-561G	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to the Office of Patent Application Processing for further processing. Thereafter, it will be referred to Technology Center 2800 for further examination on the merits, as well as consideration of the concurrently filed Petition to Accept Color Drawings.

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

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

COPY MAILED

NOV 0 4 2008

OFFICE OF PETITIONS

In re Application of :
TONG, Kai Yu et al. :
Application No. 11/890,487 : DECISION ON PETITION
Filed: August 07, 2007 : TO WITHDRAW
Attorney Docket No. **IP-374A** : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Robert M. DeWitty, the sole attorney of record. Robert M. DeWitty has been withdrawn as attorney 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 Kai Yu Tong at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KAI YU TONG**
THE HONG KONG POLYTECHNIC UNIVERSITY
HUNGHOM, KOWLOON, HONG KONG

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAR 19 2010

OFFICE OF PETITIONS

In re Application of :
Eiji Suzuki :
Application No. 11/890,512 : ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. 045237-0164

This is a decision on the petition, filed March 19, 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 2, 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 2885 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

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

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

MAILED

FEB 19 2010

OFFICE OF PETITIONS

In re Application of :
Osamu Takagi et al :
Application No. 11/890,513 : ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. 016907-2043

This is a decision on the petition, filed February 18, 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 January 6, 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 2852 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

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

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

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SEP 23 2008

In re Application of :
Edward L. Stahl, et al. :
Application No. 11/890,530 : DECISION ON PETITION
Filed: August 7, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 337320.00010 : 37 CFR 1.102(c)(1)
:

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

The petition is **GRANTED**.

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

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3637 for action on the merits commensurate with this decision.

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
www.uspto.gov

MAILED

JAN 29 2010

OFFICE OF PETITIONS

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

In re Patent No. 7,574,953 :
Issue Date: August 18, 2009 :
Application No. 11/890,536 : ON PETITION
Filed: August 6, 2007 :
Attorney Docket No. U 016974-9 :

This is a decision on the petition, filed November 11, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Raymond A. DiPerna appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF ROBERT C. KLINGER
2591 DALLAS PARKWAY
SUITE 300
FRISCO, TX 75034

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of :
Jong-in Choi et al. :
Application No. 11/890,588 : DECISION ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. 128172.00010 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 05, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned for failure to timely pay the Issue and Publication Fees on or before August 31, 2009, as required by the Notice of Issue and Publication Fee(s) Due, mailed May 29, 2009. Accordingly, the date of abandonment of this application is August 30, 2009.

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

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

The petition does not satisfy the requirements of 37 CFR 1.137(b) in that petitioner has not supplied (1) the reply in the form of payment of the issue fee and the publication fee of $1,055, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The reply does not satisfy items (1) and (2) because the credit card payment was denied.
Item (3) is not satisfied because items (1) and (2) have not been satisfied.

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 Ella Colbert at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 05 2010

OFFICE OF PETITIONS

Law Office of ROBERT C. KLINGER
2591 Dallas Parkway
Suite 300
FRISCO TX 75034

In re Application of :
Jong-in CHOI et al. :
Application No. 11/890,588 : DECISION ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. 128172.00010 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 1, 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 August 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 29, 2009. Accordingly, the date of abandonment of this application is August 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Data Management for processing into a patent.

David A. Bucei
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
FROM DIRECTOR'S OFFICE

OCT 15 2007

TECHNOLOGY CENTER 3600

Carl F. Melito
12225 Greenville Avenue
Suite 700
Dallas, TX 75243

In re application of
Ronald Gene Cope
Application No. 11/890,596
Filed: August 7, 2007
For: BULK MATERIALS RAPID DISTRIBUTION NETWORK AND APPARATUS

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

This is a decision on the petition filed on August 7, 2007 to make the above-identified application special for Environment under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The petition to make special for Environment under 37 C.F.R. § 1.102(d) is not acceptable at least because the application was not filed electronically, and limited to 20 claims or less, as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on August 7, 2007, the petition must be considered under the new guidelines and thus is properly **DENIED**.

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

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

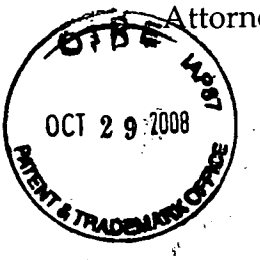
Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 10/15/07

Amendment after final submitted 10/29/2008 has been considered
AR 17/11/2008

Attorney's Docket No.: 5693P056C

Patent



AMENDMENT UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2113

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	
Douglas W. Coatney, et al.	Examiner: Riad, Amine
Application No.: 11/890,611	Art Unit: 2113
Filed: August 6, 2007	Confirmation No.: 8056
For: A METHOD AND AN APPARATUS FOR AGGRESSIVELY DETECTING MEDIA ERRORS ON STORAGE DEVICES WITH NEGLIGIBLE PERFORMANCE IMPACT	

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE AFTER FINAL UNDER 37 C.F.R. § 1.116

Examiner:

In response to the Final Office Action mailed August 27, 2008, please enter this amendment and consider the following remarks.

First Class Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on

October 27, 2008
Date of Deposit

Deborah A. McGovern
Name of Person Mailing Correspondence

DMcGovern — October 27, 2008
Signature — **Date**

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of
Rajiv K. MONGIA, et al.
Application No. 11/890,613
Filed: August 6, 2007
Attorney Docket No. **42P25110**

DECISION ON PETITION UNDER 37 CFR 1.313(c)(2) AND 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 13, 2009, to withdraw the above-identified application from issue after payment of the issue fee and the petition for Special Attention and Expedited Handling under 37 CFR 1.182, filed May 14, 2009.

The petition under 37 CFR 1.313(c)(2) 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 13, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition under 37 CFR 1.182 is **DISMISSED as moot**.

37 CFR 1.182 provides that all situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).

---

[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.*

The request for Special Attention and Expedited Handling is unnecessary and therefor not considered. The petition fee of $400 will be credited to petitioner's deposit account number 02-2666.

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

This application is being referred to Technology Center AU 2835 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

5/14/09

BSTZ Docket No.42P25110

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Rajiv Mongia, et al.	Examiner: Thompson, Gregory D.
Application No. 11/890,613	Art Unit: 2835
Filed: August 6, 2007	Conf. No.: 8354
For: ELECTROMAGNETIC INTERFERENCE SHIELDING FOR DEVICE COOLING	

PETITION FOR IMMEDIATE CONSIDERATION REQUESTED UNDER 37 CFR §1.182

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicant respectfully petitions for expedited consideration, under 37 CFR §1.182, of a previously filed petition to withdraw from issuance the above-referenced application under 37 CFR §1.313(c)(2).

Applicant respectfully petitions that the Patent Office immediately consider and grant the petition to withdraw the above-identified application from issue, under 37 CFR §1.313(c)(2), that was filed on May 13, 2009 in view of this petition under 37 CFR §1.182.

Adjustment date: 05/18/2009 LDIEP1
05/14/2009 INTEFSW 00000174 022666 11890613
01 FC:1462 400.00 CR

In connection with the Petition, Applicant authorizes the $400 fee under 1.17(f), or any additional fees, be charged to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: May 14, 2009

Joseph Lutz, Reg. No. 43,765

1279 Oakmead Parkway
Sunnyvale, California 94085-4040
Telephone (310) 207-3800
Facsimile (408) 720-8383

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

Marilyn Bass May 14, 2009

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

COPY MAILED
FEB 26 2010

In re Application of :
Rajiv K. MONGIA, et *al.* :
Application No. 11/890,613 : DECISION GRANTING PETITION
Filed: August 6, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **42P25110** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 13, 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]

A review of the filed record discloses that a duplicate issue fee payment was charged to petitioner's deposit account on February 1, 2010. Accordingly, a refund in the amount of $1510 has been credited to petitioner's deposit account no. 02-2666.

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

This application is being referred to Technology Center AU 2835 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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/26/10

2 Serial/Patent # 11/890,613

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
✓	Issue	IFEE	2/1/10	$ 1510
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$
		7 TOTAL AMOUNT OF REFUND		$ 1510

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 02--2666

10 REASON:

	Overpayment
✓	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: kd DATE: 2/26/10

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

45209 7590 11/04/2009

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

To Chung	(Depositor's name)
	(Signature)
2/1/10	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/890,613	08/06/2007	Rajiv K. Mongia	42P25110	8354

TITLE OF INVENTION: ELECTROMAGNETIC INTERFERENCE SHIELDING FOR DEVICE COOLING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$0	$1510	$1510	02/04/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
THOMPSON, GREGORY D	2835	361-818000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Blakely, Sokoloff,
2 Taylor & Zafman LLP
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: Intel Corporation

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Santa Clara, California

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☒ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order # of Copies

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 02-2666 (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature: Edwin H. Taylor

Typed or printed name: Edwin H. Taylor

Adjustment date: 03/01/2010 LDIEP1
02/02/2010 INTEFSW 00003082 022666 11890613
Date 01 FC:4521 1510.00 CR

Registration No. 25,129

This collection of information is required by 37 CFR 1.311. 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, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

Electronic Patent Application Fee Transmittal

Application Number:	11890613
Filing Date:	06-Aug-2007
Title of Invention:	ELECTROMAGNETIC INTERFERENCE SHIELDING FOR DEVICE COOLING
First Named Inventor/Applicant Name:	Rajiv K. Mongia
Filer:	Edwin Taylor/In Chung
Attorney Docket Number:	42P25110

Filed as Large Entity

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Utility Appl issue fee	1501	1	1510	1510
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
		Total in USD ($)		**1510**

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.

COPY MAILED

JAN 05 2010

BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH PA 15205

In re Application of	:	
Chung et al.	:	
Application No. 11/890,616	:	DECISIONS ON PETITIONS
Attorney Docket No.:	:	PURSUANT TO
PO9023/MD07-49	:	37 C.F.R. §§ 1.137(A)
Filed: August 7, 2007	:	AND 1.137(B)
Title: FLAME RESISTANT	:	
POLYCARBONATE COMPOSITION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a) to revive the above-identified application, filed on November 13, 2009, as well as the petition pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application, filed on November 16, 2009.

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

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

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 23, 2009, which set a shortened statutory period for reply of three months. A two-month extension of time under the provisions of 37 C.F.R. § 1.136(a) was requested on July 21, 2009, but no response to the non-final Office action was received. Accordingly, the above-identified application became abandoned on May 24, 2009. A notice of abandonment was mailed on November 13, 2009.

The petition pursuant to 37 C.F.R. § 1.137(a):

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law,…the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[1]

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1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778

> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[2]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[3]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[4]

The burden of showing the cause of the delay is on the person seeking to revive the application.[5]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6]

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.

(1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

5 Id.

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[7]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[8]

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has included an amendment, the petition fee, and a statement of facts.

The first and second requirements of Rule 1.137(a) have been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[9]

Regarding the third requirement, with this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has explained that he "attempted to file the Amendment with an Extension of Time

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7 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
9 See Rule 1.137(d).

electronically," however neither of these two items (other than the fee that is associated with the latter) was filed, and Petitioner "inadvertently did not place the Extension to Time or the Amendment into the USPTO File on line (sic)." Petitioner has added "Applicants remained unaware of their error until they received the Notice of Abandonment on November 13, 2009." The record does not contain an explanation as to why the attempt to submit these papers was not successful, however the statement of facts suggests that Petitioner did not properly upload the electronic documents via EFS-Web.

Petitioner failed to fully reply within the period of time that was set by the Office communication, and as such, this application became abandoned by operation of law, pursuant to 37 C.F.R. § 1.135. After attempting to electronically submit documents to the Office, a reasonable and prudent person, acting in relation to his most important business, would have checked to ensure that each document had successfully uploaded.

It follows that the record does not support a finding that the entire period of delay was unavoidable. The present set of facts might result in a finding of unintentional delay, but it does not rise to the level of unavoidable.

The petition pursuant to 37 C.F.R. § 1.137(b):

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[10]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on November 13, 2009 can be processed in due course.

Petitioner has also submitted a two-month extension of time. Since this extension of time under 37 C.F.R. § 1.136 was received on July 21, 2009, the duplicate payment will be credited to Petitioner's Deposit Account.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected – **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[11] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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10 See Rule 1.137(d).

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

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

NICOLE SHUMAKER
2137 SUNRISE DRIVE
ANCHORAGE, AK 99508

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Brian R. **SHUMAKER, et al.** :
Application No. 11/890,661 : DECISION ON PETITION
Filed: August 7, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 21, 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 22, 2007.

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

Turning first to item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by Nicole Shumaker, who is one of the applicants in the above-identified application.

Petitioner's attention is directed to 37 CFR 1.33(b), which states:

> *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Nicole Shumaker) was ever given a power of attorney to act on behalf of the other inventors, or that she is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay. As it appears that Ms. Shumaker is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied. In this regard, 37 CFR 3.73(b) provides:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment * * * For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.
(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

In view of the above, and as it appears that Ms. Shumaker is signing the statement of unintentional delay as an assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

As to item (1) above, the reply is considered defective also for the reasons stated above (that the paper (reply) must be signed by a proper party; *i.e.*, all the inventors or an assignee of the entire interest and, if signed by an assignee of the entire interest, must satisfy the provisions of 37 CFR 3.73(b).

In sum, petitioner must submit a petition containing a statement of unintentional delay and reply (amendment) signed by all the inventors, **unless** petitioner herein is the assignee of the entire right, title and interest in the instant application, then compliance with 37 CFR 3.73(b) must be satisfied, which can be accomplished by completion of the enclosed certificate under 37 CFR 3.73(b).

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

Enclosure: Certificate under 37 CFR 3.73(b) and Privacy Act Statement

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

NICOLE SHUMAKER
2137 SUNRISE DRIVE
ANCHORAGE, AK 99508

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Brian R. **SHUMAKER, et al.** :
Application No. 11/890,661 : DECISION ON PETITION
Filed: August 7, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts of Nonprovisional Application mailed August 21, 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 22, 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 supplemental declaration with surcharge fee of $65, supplemental specification, abstract and claims; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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DEC 1 4 2007

OFFICE OF PETITIONS

In re Application of:
Schwartz et al.
Application No. 11/890684
Filing or 371(c) Date: 08/07/2007
Title of Invention:
COMPOSITION COMPRISING A PARTICULATE ZINC MATERIAL, A PYRITHIONE OR A POLYVALENT METAL SALT OF A PYRITHIONE AND A SYNTHETIC CATIONIC POLYMER

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to a "Petition and Fee to Accept Invenorship Under 37 CFR 1.47, filed November 8, 2007, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The petition is properly treated under 37 CFR 1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on August 7, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on August 21, 2007, requiring *inter alia*, a properly signed oath or declaration.

Applicant files the present petition in response to the Notice and alleges that inventor Afua Asiedua Asante cannot be located. In support of this assertion, Applicant provides that a certified letter was mailed to inventor Asante; however, inventor Asante was not at her last known address or her parents address. Applicant further provides that none of inventor Asante's co-workers at Proctor and Gamble know her whereabouts. Finally, Applicant provides that an

internet search was conducted without results. No copies of the internet search has been filed with the petition.

Applicable Law, rules and MPEP

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

As to item (1), the MPEP provides:

> Where 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.
>
> 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.

Applicant asserts that efforts to locate the nonsigning inventor included an internet search. 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 from a person with first hand knowledge of the facts relied upon to establish that a diligent effort was made to locate the inventor, as opposed to conclusions. *See*, MPEP § 409.03(d).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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MAR 07 2008

OFFICE OF PETITIONS

In re Application of:
Schwartz et al.
Application No. 11/890684
Filing or 371(c) Date: 08/07/2007
Title of Invention:
COMPOSITION COMPRISING A PARTICULATE ZINC MATERIAL, A PYRITHIONE OR A POLYVALENT METAL SALT OF A PYRITHIONE AND A SYNTHETIC CATIONIC POLYMER

DECISION DISMISSING PETITION UNDER 37 CFR 1.47(a)

This is in response to a "Request for Reconsideration of Dismissal of Petition and Fee to Accept Invenorship Under 37 CFR 1.47, filed February 14, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The petition is properly treated under 37 CFR 1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on August 7, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on August 21, 2007, requiring *inter alia*, a properly signed oath or declaration.

Applicant filed a petition on November 8, 2007, in response to the Notice and alleged that inventor Afua Asiedua Asante could not be located. In support of this assertion, Applicant stated that a certified letter was mailed to inventor Asante; however, inventor Asante was not at her last

known address or her parents address. Applicant further provided that none of inventor Asante's co-workers at Proctor and Gamble know her whereabouts. Finally, Applicant provided that an internet search was conducted without results. No copies of the internet search was been filed with the petition.

The petition was dismissed in a Decision mailed December 7, 2007. The Decision informed Applicant that, 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. The Decision stated that it is important that the forthcoming communication contain statements of fact from a person with first hand knowledge of the facts relied upon to establish that a diligent effort was made to locate the inventor, as opposed to conclusions. *See*, MPEP § 409.03(d).

The present request for reconsideration

Petitioner files the present request for reconsideration, and the Declarations of Paula Durr (the "Durr Declaration"), and Sheila Blevins (the (Blevins Declaration"), along with copies of internet searches. The Durr Declaration provides that two different numbers were found in an internet white page search for an A. Asante. At the first telephone number called, they did not know of anyone named Asante. The second telephone number called was no longer in service. The Durr Declaration further provides that an Afua Asante was found at an address in Pennsylvania, but no telephone number was available. The Declaration further states that the patent application cannot be mailed due to its confidential nature, without confirmation that the documents would go to the c would go to the correct person. The Durr Declaration concludes with a statement that additional internet searches yielded no results, and refers to the Blevins Declaration and a copy of an unclaimed and returned certified mail.

The Blevins Declaration is a copy of the Blevins Declaration filed in support of the petition filed November 8, 2007, stating that a certified letter was mailed to inventor Asante; however, inventor Asante was not at her last known address or her parents address; that none of inventor Asante's co-workers at Proctor and Gamble know her whereabouts, and that an internet search was conducted without results.

Applicable Law, rules and MPEP

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

As to item (1), the MPEP provides:

> Where 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.
>
> 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.

Analysis

Applicant reiterates in the request for reconsideration of petition that a certified letter was sent to the nonsigning inventor at her last known address, and adds that two telephone numbers were found in the internet search, but neither of the telephone numbers were that of the nonsigning inventor. Applicant also provides that an Afua Asante was found at an address in Pennsylvania, but no telephone number was available, and that the patent application cannot be mailed due to its confidential nature, without confirmation that the documents would go to the correct person; however, Applicant does not allege any attempts were made to determine whether this Afua Asante was the correct person. Moreover, 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.

The MPEP states

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). (Emphasis supplied)

Here, Applicant admits that it found an Afua Asante in Pennsylvania, but Applicant failed to determine whether this is the nonsigning inventor, and whether or not she is willing to receive the papers in order to sign the oath or declaration. Applicant mailed the application to the last known address of the nonsigning inventor, and telephoned two telephone numbers found on the internet for an A. Asante, possibly belonging to the nonsigning inventor. However, when Applicant located a person with the first full name and the last name of the inventor, in Pennsylvania, Applicant failed to follow-up to determine whether Afua Asante was Afua Asiedua Asante. This is more perplexing given that Applicant also filed with the petition a copy of the Drexel University Commencement and Honors Celebration from the Graduating Class of 2006, which lists the nonsigning inventor. Of note is that Drexel University is in Pennsylvania. At the very least, a diligent effort requires an attempt to determine whether the Afua Asante, found at an address in Pennsylvania, is the nonsigning inventor, and whether or not she is willing to receive the papers in order to sign the oath or declaration [1].

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

[1] Diligent is defined in Black's Law Dictionary as "[a]ttentive and persistent in doing a thing; steadily applied; active; sedulous; laborious; unremitting; untiring".

UNITED STATES PATENT AND TRADEMARK OFFICE

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6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of:	:	
Schwartz et al.	:	
Application No. 11/890684	:	DECISION NOTING
Filing or 371(c) Date: 08/07/2007	:	JOINDER OF
Title of Invention:	:	INVENTOR
COMPOSITION COMPRISING A PARTICULATE ZINC MATERIAL, A PYRITHIONE OR A POLYVALENT METAL SALT OF A PYRITHIONE AND A SYNTHETIC CATIONIC POLYMER	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR §1.47(a), filed April 30, 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 the Office of Patent Application Processing for continued processing 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAHIVE & COCKFIELD, LLP/THE MATHWORKS
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Application of
David A. Foti
Application No. 11/890689
Filed: 08/06/2007
Attorney Docket No. MWS-262A

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed on September 19, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 28, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 11, 2009 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 2193 for examination in due course.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/890,689	08/06/2007	David A. Foti	MWS-262A

CONFIRMATION NO. 9187

74321
LAHIVE & COCKFIELD, LLP/THE MATHWORKS
FLOOR 30, SUITE 3000
One Post Office Square
Boston, MA 02109-2127

NONPUBLICATION RESCISSION LETTER

OC000000034845637

Date Mailed: 03/05/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/11/2009.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/diwood/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/890,698	08/07/2007	Leonel R. Arana	010400CONCON	8618

7590 07/19/2008

K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

EXAMINER	
CREPEAU, JONATHAN	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
07/19/2008	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/21/2008 NFARMER
08/07/2007 EAYALEW1 00000067 111110 11890698
02 FC:1111 500.00 CR
04 FC:1201 1000.00 CR
05 FC:1202 2750.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LORI OSTERHELDT
SUITE 233
7657 WINNETKA AVENUE
WINNETKA, CA 91306-2677

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Lori Osterheldt :
Application No. 11/890,700 : ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. :

This is in response to the communication, filed March 15, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On May 5, 2009, the Office mailed a non-final Office action, which set a three (3) month shortened statutory period for reply. The application became abandoned on August 6, 2009, for failure to submit a response as required by the May 5, 2009 Notice. On December 14, 2009, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that no reply to the non-final Office action was received prior to the abandonment of the application. While it is noted that petitioner filed a revocation and power of attorney on July 30, 2009 and resubmitted August 7, 2009, accepted August 24, 2009, the Office action mailed May 5, 2009 was mailed to the address of record. Since no reply to the Notice of May 5, 2009 was received, the application became abandoned by operation of law.

A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence,

petitioner must explain how he reminds himself of response due dates and show that the due date for the Office action of May 5, 2009, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after May 5, 2009, to demonstrate non-receipt of the Notice. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after May 5, 2009; the period when he would have received the May 5, 2009 Office action.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the Notice of Non-Compliant Amendment. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the May 5, 2009 Notice of Non-Compliant Amendment accompanies this decision for petitioner's convenience.

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.

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).

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 April M. Wise at (571) 272-1642.

/Carl Friedman/
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, Privacy Act Statement; A copy of the Office action mailed May 5, 2009.

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.
11/890,700	08/07/2007	Lori Osterheldt		8612

7590 05/05/2009

Law Office of Robert J. Schaap
P.O. BOX 950103
Mission Hills, CA 91395

EXAMINER	
WILLIAMS, JAMILA O	

ART UNIT	PAPER NUMBER
3725	

MAIL DATE	DELIVERY MODE
05/05/2009	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.

Office Action Summary	Application No.	Applicant(s)	
	11/890,700	OSTERHELDT, LORI	
	Examiner	Art Unit	
	JAMILA WILLIAMS	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 1-13 are objected to because of the following informalities: the numbering of the claims is not in standard format. Applicant is advised to review the format of the cited references and/or the appropriate sections of the MPEP. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from

the claims what is encompassed by the phrases "extend past other pages", "extends beyond other pages of the document". Looking at claims 1 and 9, for example, applicant has not clearly set forth how many pages are in the document; therefore it is not clear what is encompassed by "other pages". Additionally, it is not clear what is encompassed by the phrases "in the same manner as the page itself was securable to a binder" and "in the same manner that they page would have been secured without the page size extender" and "in the same position as the page". Looking at claims 3, 4 and 11, for example, applicant has not clearly set forth in what manner that the page prior to application of the extender is securable to a binder; therefore it is not clear what is encompassed by "in the same manner" or "in the same position". In claim 13 it is not clear what is encompassed by the phrase "mounting a page size extender to a margin of the page...providing a tab to an opposite margin of the page". Claim 9, from which these claims depend, already provides for the extender on the margin of the page and securing a tab, so it is not clear how the recitations of claim 13 is further limiting of independent claim 9

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by 5,683,194 to Emmel et al (hereinafter Emmel) or 6,449,886 to Gray.

Regarding claim 1, both Emmel and Gray disclose a page size extender for application to a page of a document to allow a tab on a margin thereof to be readily visible and engageable (in extender of Emmel and Gray are inherently capable of being used with pages having tabs), the extender comprising an extender strip of a substrate having a width generally less than that of the page (figure 1 of both Emmel and Gray), means for operatively securing the extender strip to an edge of the page to thereby increase the overall width of that page (adhesive unnumbered in Gray and adhesive 20a,b of Emmel), whereby the extended width of the page allows a tab on an outer margin of the page to extend past other pages (extender of Gray and Emmel is inherently capable of this function).

Regarding claim 2, both Emmel and Gray disclose the extender strip has a length approximately equal to or less than the length of the page (figure 1 of Gray and column 3 lines 43-45 of Emmel).

Regarding claim 6, both Emmel and Gray disclose the means for operatively securing comprises an adhesive section on the page size extender (column 2 line 53 of Gray and adhesive 20a,b of Emmel).

7. Claims 1,3,4 are rejected under 35 U.S.C. 102(b) as being anticipated by 6,390,713 to Moor et al (hereinafter Moor).

Regarding claim 1, Moor discloses a page size extender comprising an extender strip of a substrate having a width generally less than that of the page (figure 8), means for operatively securing the extender strip to an edge of the page to thereby increase the overall width of that page (clip 110), whereby the extended width of the page allows a tab on an outer margin of the page to extend past other pages (extender of Moor is inherently capable of this function).

Regarding claims 3-4, Moor discloses the page has means to secure the page in a binder (see apertures in page of figure 7) and the page extender comprises means to operatively secure the extender strip to a binder in the same manner as page (per apertures 130 of figure 8) and located in the same position (figure 8- apertures 144 are in same position as page).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moor in view of 5,513,457 to Byrnes et al (hereinafter Byrnes). Moor discloses the elements of the claims but for the page is included in a page sleeve protector. Byrnes teaches having a sleeve protector for holding pages (figure 3a for example has opening to locate page in sleeve). It would have been obvious to one having ordinary skill in the art at the time

the invention was made to use the sleeve protector of Byrnes with the extender of Moor for the purpose of allowing the protector to be coupled to a binder (coiled for example).

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moor in view of Emmel. Moor discloses the elements of the claims but for the means for operatively securing comprising an adhesive section (Moor discloses clips). Emmel teaches a page extender having an adhesive section (20a,b) for operatively securing pages thereto. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the adhesive of Emmel with the extender of Moor for the purpose of providing an alternative securing means.

11. Claims 9,11,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moor in view of 6,594,933 to Attia et al (hereinafter Attia). Moor discloses the elements of the claims but for securing a tab to an opposite margin of the page. Attia teaches index tabs to be adhered to pages of a document (figure 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the index tabs of Attia with the pages of Moor for the purpose of providing further indexing of the document.

12. Claims 8,10,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moor in view of Attia and further in view of 4,430,015 to Nerlinger. Moor modified by Attia discloses the elements of the claims including

having pre-formed tab dividers (Moor figure 1). This combination does not however disclose engaging margin of page with adhesive and attaching a page size extender to the divider. Nerlinger teaches having a page extender that is adhered to the divider by adhesive (column 2 lines 8-12 and adhesive 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teachings of Nerlinger (to attach a divider to an extender and adhesive for securing extender to page) with the device of Moor for the purpose of providing an alternative way of coupling the divider to the book and coupling the page to the extender.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. This is simply art of interest and was not used to reject any claims in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMILA WILLIAMS whose telephone number is (571)272-4431. The examiner can normally be reached on Monday-Thursday 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./
Examiner, Art Unit 3725

/Dana Ross/
Supervisory Patent Examiner, Art Unit 3725

Notice of References Cited	Application/Control No. 11/890,700	Applicant(s)/Patent Under Reexamination OSTERHELDT, LORI	
	Examiner JAMILA WILLIAMS	Art Unit 3725	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,632,042	10-2003	Liener Chin et al.	402/79
*	B	US-4,430,015	02-1984	Nerlinger, John J.	402/79
*	C	US-6,390,713	05-2002	Moor et al.	402/57
*	D	US-6,594,933	07-2003	Attia et al.	40/641
*	E	US-5,513,457	05-1996	Byrnes et al.	40/405
*	F	US-2007/0085331	04-2007	Mueller, Bonnie L.	281/045
*	G	US-5,669,689	09-1997	Zeifang, William Joseph	353/120
*	H	US-5,632,113	05-1997	Raymond et al.	43/54.1
*	I	US-2,260,407	10-1941	STANLEY SCHADE FRANK	40/359
*	J	US-2006/0104709	05-2006	Shrock, Cecil C.	402/079
*	K	US-6,449,886	09-2002	Gray, William (Bill) James	40/124.01
*	L	US-5,683,194	11-1997	Emmel et al.	402/79
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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NOV 30 2007

TECHNOLOGY CENTER 3600

Roger L. Maxwell
3221 Amherst Avenue
Dallas, Texas 75225

In re application of
Roger L. Maxwell
Application No. 11/890705
Filed: August 7, 2007
For: TACTICAL UTILITY POLE SYSTEM AND METHOD OF USE THEREOF

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

This is a decision on the petition filed on August 7, 2007 to make the above-identified application special for HIV/AIDS under 37 C.F.R. § 1.102(c).

It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines (see Federal Register Notice of June 26, 2006). Since applicant's petition was received on March 29, 2007, the petition must be considered under the new guidelines under 37 CFR 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;
6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition fails to comply with conditions II.2,II.3, II.4,II.5, II.5.1, II.5.2, II.5.3, II.6.2, II.6.3, II.6.4, II.6.5 and II.6.6, above.

As to conditions II.2, II.3, and II.4, the petition does not include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application, include a statement that applicant agrees to make an election without traverse in a telephone interview, or include a statement that applicant agrees to conduct such an interview when requested by the examiner.

As to condition II.5 and II.5.3, the petition does not include a statement, made based on a good faith belief, that a pre-examination search in compliance with the requirements was conducted. Furthermore, while the applicant states that a pre-examination class/subclass search was made, in addition to the class/subclass combinations already searched, the search document needs to include a search of 705/2,3 class/subclass combinations (where the invention is classified) as well as text searches of U.S. patents, patent application publications, foreign patent documents and non-patent literature.. At a minimum, the foreign databases searched should include EPO, WIPO and the JPO databases.

As to condition II.5.2, the petition lacks an indication of a pre-examination search that encompasses all of the features of the claims, giving the claims the broadest reasonable interpretation. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/.

The USPTO website has search templates that are broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at: http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm.

As to condition II.6, II.6.3, II.6.4, II.6.5 and II.6.6 there appears to be no submitted Support Document.

As to condition II.6.2, there has not been an adequate listing of all the limitations in each of the claims that are disclosed in each of the cited references, specifying where each of the limitations are disclosed in each of the references. The USPTO website has an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

As to condition II.6.3, there is not a detailed explanation of how each of the claims is patentable over the references cited.

As to condition II.6.4, there is not a concise statement of utility of the invention.

As to condition II.6.5, there is no showing where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification and if the application is claiming benefit of one or more applications, the showing must include where each limitation finds support in each such application.

As to condition II.6.5, there is not identification of any cited references that may be disqualified under 35 USC 103(c).

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

DECISION

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

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

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

Any inquiry regarding this decision should be directed to Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.

Robert A. Weinhardt
Business Practice Specialist
Technology Center 3600

RW/jm: 11/28/07

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/890,710	08/07/2007	Masami Iwasaki	4041K-000400	8617

7590 10/26/2009

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
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EXAMINER	
CIRIC, LJILJANA V	

ART UNIT	PAPER NUMBER
3744	

MAIL DATE	DELIVERY MODE
10/26/2009	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

Repln Ref: 10/26/2009 [illegible] 00144910[illegible]
DAM:089750 Name/Number:11890710
PC: 9204 $783.00 CR

Adjustment date: 10/26/2009 MFARMER
08/09/2007 EAYALEW1 00000054 11890710
02 FC:1111 -500.00 OP
04 FC:1201 -200.00 OP

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P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Steven T. Sprouse	: DECISION ON REQUEST FOR
Patent Number	: 7599241	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/890,734	: 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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APR 26 2010

OFFICE OF PETITIONS

CHARLES N. QUINN
FOX ROTHSCHILD LLP
2000 MARKET STREET, 10TH FLOOR
PHILADELPHIA, PA 19103

In re Application of :
Richard Yandrick, et al. :
Application No. 11/890,792 : DECISION ON PETITION
Filed: August 6, 2007 :
Attorney Docket No. 96944.00201 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 14, 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 November 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

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

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on March 12, 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 undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2841 for appropriate action by the Examiner in the normal course of business on the reply received March 12, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

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Minneapolis, MN 55402-2100

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FEB 22 2008

OFFICE OF PETITIONS

In re Application of :
William K. Perrizo :
Application No. 11/890,796 : DECISION ON PETITION
Filed: August 6, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1697.10US02 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 10, 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 applicant William K. Perrizo. Accordingly, the above-identified application has been accorded "special" status.

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

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

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 2121 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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JUN 20 2008

In re Application of :
Schaevitz, et al. : DECISION REFUSING STATUS
Application No. 11/890,823 : UNDER 37 CFR 1.47(a)
Filed: August 7, 2007 :
Atty. Dkt. No.: 103667-0006-102 :
:

This decision is in response to the petition under 37 CFR 1.47(a) filed March 24, 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 August 7, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed August 22, 2007. The Notice required, *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 assert that on two occasions, a declaration and assignment were mailed to the non-signing inventor, and that to date, the non-signing inventor has not returned the declaration. Petitioners have also attempted to contact the non-signing inventor via telephone, but to date, have not reached the non-signing inventor.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

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

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OFFICE OF PETITIONS

In re Application of
Scaevitz, et al.
Application No. 11/890,823
Filed: August 7, 2007
Attorney Docket No. 103667-0006-102

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a)

Papers filed on July 17, 2008 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed June 20, 2008, included a Declaration signed by a previously non-signing inventor, Aleksander Franz, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record for this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

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

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MAY 18 2010

ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110-2624

In re Application of: BELHE et al.	: DECISION ON PETITION
Appl. No. 11/890,831	: TO WITHDRAW FINALITY
Filed: August 7, 2007	: OF OFFICE ACTION
For: SYSTEMS AND METHODS FOR PREDICTIVE DATA ANALYSIS	: UNDER 37 CFR 1.181

This is a decision on applicants' petition under 37 CFR § 1.181 filed on March 17, 2010 to requesting withdrawal of the finality of the Office action mailed on March 11, 2010.

The petition is **GRANTED.**

Applicants argue that the amendment of November 12, 2009 does not necessitate new grounds of rejection because claim 1 and 22 are still in their originally filed state and have not been amended. Furthermore, the applicants argue that an information disclosure statement has not been filed since the previous Office action was mailed.

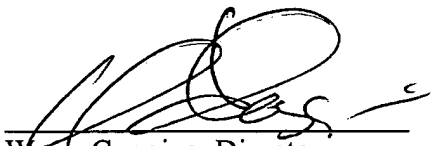
The record reflects that the above application was filed on August 08, 2007 with original claims 1-40. A restriction requirement was mailed to applicant on May 22, 2009 restricting two related subcombinations: Group I of claims 1-21 and 29-34, and Group II of claims 22-28 and 35-40. Applicants elected with traverse Group I of claims 1-21 and 29-34 on June 08, 2009 and received a non-final Office action for these claims on August 20, 2009. On November 12, 2009 an amendment was filed with respect to dependent claim 10-11 (dependent upon non-amended independent claim 1), independent claim 29, dependent claims 30, 33 and 34 (dependent upon claim 29), independent claim 35, dependent claims 36-37 and 39-40 (dependent upon claim 35) and further added new claims 41-42. On May 11, 2010 a final Office action was mailed rejecting claims 1-42.

> MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection. Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of

rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In the non-final Office action dated August 20, 2009, the examiner rejected claims 1-28, 31-34, 36 and 38-40 on 103(a) over Biats (US patent application publication 2005/0091080) in view of Dirnberger (US patent application publication 2007/0027725). In the final Office action dated March 11, 2010, the examiner rejected claims 1-28 and 41-42 on 103(a) over Hillmer (US patent application publication 2003/0097330) in view of Dirnberger (US patent application publication 2007/0027725). Applicants are correct that claims 1 and 22 are still in their originally filed state and have not been amended. Applicants are also correct that an information disclosure statement (IDS) had not been filed since the first Office action was mailed on August 20, 2009. Since claims 1-9, 12-28 were not amended or any IDS was filed prior to the final Office action, the new grounds of rejection Hillmer in view of Dirnberger made in the final Office action dated March 11, 2010 were not necessitated by the November 12, 2009 amendment. As such, the finality of the March 11, 2010 is improper.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Jim Trammell at 571-272-6712



Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

jt/lm: 5/13/2010

LM

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CHARLES W. HANOR
750 RITTIMAN ROAD
SAN ANTONIO TX 78209

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JUL 2 8 2008

In re Application of :
Nicholas V. SECCIA et al. :
Application No. 11/890,873 : DECISION ON PETITION
Filed: August 08, 2007 :
Attorney Docket No. **8341.002** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 23, 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 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, the oath and the replacement claims, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of August 23, 2007 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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PTO/SB/84 (01-08)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 8341.002

First named inventor: Francis J. Kastler, et al.

Application No.: 11/890,873 Art Unit: 1746

Filed: 08/08/2007 Examiner:

Title: Multi-stage Metal Cleaner

05/14/2008 PCHOMP 00000023 11890873
01 FC:2453 770.00 OP

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
[X] 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 _____ (identify type of reply):

[X] has been filed previously on 05/07/2008.
[ ] is enclosed herewith.

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

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

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

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3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	05/13/2008 Date
Charles Hanor Typed or printed name	27,132 Registration Number, if applicable
750 Rittiman Road Address	210-829-2002 Telephone Number
San Antonio, TX 78209 Address	

Enclosures: [X] Fee Payment

[ ] Reply

[X] Terminal Disclaimer Form

[X] 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.

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

Date	/jeannine vasquez/ Signature Jeannine Vasquez Typed or printed name of person signing certificate

517108

PTO/SB/01 (06-07)
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DECLARATION —Utility or Design Patent Application

Direct all correspondence to:	☑ The address associated with Customer Number:	64631	OR ☐ Correspondence address below

Name: Charles W. Hanor		
Address: 750 Rittman Road		
City: San Antonio	State: TX	ZIP: 78209
Country: US	Telephone: 210-829-2002	Email: chanor@hanor.com

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.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:	☐ A petition has been filed for this unsigned inventor
Given Name (first and middle [if any]): Francis	Family Name or Surname: Kestler
Inventor's Signature: /francis kestler/ Francis Kestler	Date:

Residence: City: Gaylord	State: MI	Country: US	Citizenship: US
Mailing Address: 517 Alpine Road			
City: Gaylord	State: MI	Zip: 49735	Country: US

☑ Additional inventors or a legal representative are being named on the 1 supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.

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THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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OCT 05 2009

OFFICE OF PETITIONS

In re Application of :
Sabine Axt et al :
Application No. 11/890,880 : DECISION GRANTING PETITION
Filed: August 8, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P-203-US2 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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C/O MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Urdea et al. :
Application No. 11/890,884 :
Filed: August 7, 2007 :
Attorney Docket No. TETH-001CON2 (1001-CON2) :

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 14, 2010.

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

A review of the file record indicates that Morrison & Foerster LLP, was revoked as power of attorney by the assignee of the patent application on February 4, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: TETHYS BIOSCIENCE, INC.
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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GREENVILLE SC 29602-1449

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OFFICE OF PETITIONS

In re Application of
Michael G. Fisk et al.
Application No. 11/890,903
Filed: August 7, 2007
Attorney Docket No. SGI-0074-CIP4

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed February 26, 2008 under 37 CFR 1.47(a). This decision is also in response to the paper filed February 26, 2008 requesting that status as a Small Entity be removed and for acceptance of a fee deficiency submission. The paper is being treated as a petition under 37 CFR 1.28

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

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

The above-identified application was filed on August 7, 2007, without an oath or declaration. Accordingly, on August 22, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a declaration executed by all joint inventors except Robert Davidge, in their own stead and on behalf of the non-signing joint inventor and a four month extension of time was filed. Petitioner claims that joint inventor Davidge cannot be located to sign the declaration.

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

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

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

(3) the petition fee;

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

At the outset while petitioners argue that the non-signing inventor could not be located, the evidence presented is proof that correspondence regarding the above identified application and the subject of this petition were mailed to and delivered to the last known address. In the absence of the correspondence being returned or not delivered it can be construed that the non-signing inventor received the correspondence and thus locating him is not an issue. Instead, the petition is being construed to say that the non-signing inventor refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Nonetheless, the petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor only that the Declaration/Power of Attorney was sent to joint inventor Davidge.

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

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

Finally, the petition fee in the amount of $200 and the fee for a four month extension of time, in the amount of $1640, have been applied.

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

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.33d 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

---

[1] MPEP 409.03(d).

Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

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

By mail: Mail Stop Petitions
Commissioner for Patents
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Alexandria, VA 22313-1450

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DORITY & MANNING, P.A.
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SEP 25 2008

OFFICE OF PETITIONS

In re Application of
Michael G. Fisk et al.
Application No. 11/890,903
Filed: August 7, 2007
Attorney Docket No. SGI-0074-CIP4

DECISION REFUSING 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 August 21, 2008.

The petition is **GRANTED**.

The above-identified application was filed on August 7, 2007, without an oath or declaration. Accordingly, on August 22, 2007, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring, *inter alia*, an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. In response, a petition and a declaration executed by all joint inventors except Robert Davidge, in their own stead and on behalf of the non-signing joint inventor and a four month extension of time was filed February 26, 2008. Although petitioner claimed that joint inventor Davidge could not be located to sign the declaration, the evidence was more consistent with an argument that the joint inventor refused to sign the declaration. The petition was dismissed in a decision mailed April 21, 2008 because the proof presented did not support a claim that a copy of the complete application 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 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.

In response to the decision dismissing the petition filed February 26, 2008, the instant petition with a two month extension of time request shows that a copy of the complete application was sent to joint inventor Davidge and that Mr. Davidge accepted delivery of the application, but that Mr. Davidge has not returned an executed copy of the oath or declaration and thus refuses 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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CHARLES J. PRESCOTT, P.A.
SUITE 115
2033 WOOD STREET
SARASOTA FL 34237

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NOV 10 2008

In re Application of :
HURLEY, Edward P. :
Application No. 11/890,910 : DECISION ON PETITION
Filed: August 08, 2007 : TO WITHDRAW
Attorney Docket No. **P2069 RCE** : FROM RECORD
:

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 25, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that all of the acts noted in the above-identified certifications have been performed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **EDWARD P. HURLEY**
1214 WESTERN PINE CIRCLE
SARASOTA, FL 34240

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CHARLES J. PRESCOTT, P.A.
SUITE 115
2033 WOOD STREET
SARASOTA FL 34237

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of :

HURLEY, Edward P. :
Application No. 11/890,910 :
Filed: August 08, 2007 :
Attorney Docket No. **P2069 RCE** :

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 November 17, 2008.

The request is **APPROVED**.

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

The request was signed Charles J. Prescott on behalf of all attorneys of record who are associated with customer No. 30650. 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 Edward P. Hurley at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **EDWARD P. HURLEY**
1214 WESTERN PINE CIRCLE
SARASOTA, FL 34240

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Alexandria, VA 22313-1450
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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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NOV 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Schluter	:	
Application No.: 11/890914	:	DECISION
Filing or 371(c) Date: 08/07/2007	:	ON PETITION
Attorney Docket Number:	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 15, 2009. Petitioner avers that a timely reply to the Office action was filed, however, the application serial number contained two digits that were inadvertently transposed. The petition is properly treated as a petition to withdraw the holding of abandonment based upon evidence that a timely reply was filed, under 37 CFR 1.181(a) (no fee). A decision on the petition under 37 CFR 1.137(b) will be held in abeyance pending final resolution of the petition to withdraw the holding of abandonment.

This Petition under 37 CFR 1.181 is hereby dismissed.

The petition under 37 CFR 1.137(b) is hereby held in abeyance.

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

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 8, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on September 15, 2009. A Notice of Abandonment was mailed August 20, 2009.

Applicant files the present petition and asserts that a timely response to the Office action was filed on March 9, 2009; however, Applicant inadvertently entered an incorrect application serial number, 11/809,914. In support of this assertion, Applicant files a copy of the reply, along with a copy of a return receipt postcard. A review of the return receipt postcard reveals that although

the application serial number was incorrect on the reply and the return receipt postcard, the reply and postcard contained the correct title of the invention, inventor, and attorney docket number.

A review of the contents of application serial number 11/809,914, reveals that the response filed March 13, 2009 was received in this Office and placed in that application.

In view of the above, it is apparent that the Response to Office action was filed in this Office on March 13, 2009, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

However, while a review of the Amendment reveals that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Amendment was mailed to this Office on March 9, 2009, the Certificate of Mailing was executed by Laura McNeely.

Applicable Law, Rules and MPEP

37 CFR 1.8(b), Certificate of mailing or transmission, .provides:

> (b) 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.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

37 CFR 1.8(b)

While Applicant has filed sufficient evidence to demonstrate the filing of the Amendment, and this Office excuses minor errors in the identification of an application, the date of the filing of the Amendment has not been adequately established. 37 CFR 1.8(b)(3) requires a statement which attests on a personal knowledge basis to the timely mailing of the Reply. Here, a statement from Ms. McNeely has not been provided. Accordingly, it is unclear whether the reply was timely, or whether an extension of time and fee were required.

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition which includes a statement from Ms. McNeely which attests on a personal knowledge basis to the timely mailing of the Amendment.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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APR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert Schluter	:	
Application No.: 11/890914	:	DECISION
Filing or 371(c) Date: 08/07/2007	:	ON PETITION
Attorney Docket Number:	:	

This is a decision on the "Renewed Petition to Revive Application Per 37 C.F.R. § 1.137(b)," filed January 8, 2010. The petition is properly treated as a renewed petition under 37 CFR 1.181.

This Petition is hereby granted.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 8, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on September 15, 2009. A Notice of Abandonment was mailed August 20, 2009.

Petitioner filed a petition to revive the application on September 15, 2009, wherein petitioner asserted that a timely response to the Office action was filed on March 9, 2009; however, petitioner inadvertently entered an incorrect application serial number, 11/809,914. In support of this assertion, Applicant filed a copy of the reply, along with a copy of a return receipt postcard. A review of the return receipt postcard revealed that although the application serial number was incorrect on the reply and the return receipt postcard, the reply and postcard contained the correct title of the invention, inventor, and attorney docket number.

A review of the contents of application serial number 11/809,914, revealed that the response filed March 13, 2009 was received in this Office and placed in that application.

In view of the above, it was apparent that the Response to Office action was filed in this Office on March 13, 2009, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

However, while a review of the Amendment revealed that it contained a Certificate of Mailing under 37 CFR 1.8, certifying that the Amendment was mailed to this Office on March 9, 2009, the Certificate of Mailing was executed by Laura McNeely, and no statement from Ms. McNeely was filed to support the timely filing of the Amendment, on March 9, 2009.

The petition was treated as a petition to withdraw the holding of abandonment based on evidence that a timely reply was filed pursuant to 37 CFR 1.8, and the petition was dismissed. The petition is dismissed without prejudice. Applicant was advised to file a request for reconsideration of petition and include a statement from Ms. McNeely attesting on a personal knowledge basis to the timely mailing of the Amendment.

The present renewed petition

Applicant files a copy of the original reply, and a statement from Ms. McNeely attesting on a personal knowledge basis to the timely mailing of the Amendment.

Applicable Law, Rules and MPEP

37 CFR 1.8(b), Certificate of mailing or transmission, provides:

> (b) 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.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

37 CFR 1.8(b)

Applicant has complied with the requirements of 37 CFR 1.8(b).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The fee for the petition under 37 CFR 1.137(b) has been refunded to petitioner's deposit account as authorized in the petition.

The application will be referred to Technology Center Art Unit 3637 for continued examination in the normal course of business.

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

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Gizaw, et al. :
Application No. 11/890,924 : DECISION ON PETITION
Filed: August 8, 2007 :
Docket No.: 10533M3 :

This is a decision on the petition under 37 CFR 1.181, filed June 6, 2008, to withdraw the holding of abandonment.

The Notice of Abandonment mailed May 21, 2008 indicated that the application was abandoned for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application mailed August 22, 2007.

The Notice to File Missing Parts of Nonprovisional Application required submission of an oath or declaration (and surcharge) and indicated that Figure 3 appeared to have been omitted from the application as filed.

On October 15, 2007, a reply to the Notice to File Missing Parts of Nonprovisional Application was filed and consisted of a declaration and surcharge, assignment documents, and Figure 3.

On October 26, 2007, a Notice of Incomplete Reply was mailed, acknowledging receipt of the October 15, 2007 reply, but indicating that the reply lacked Figure 3. The Notice of Incomplete Reply indicated that the time period for reply remained as set forth in the Notice to File Missing Parts of Nonprovisional Application.

The Notice of Abandonment, mailed May 21, 2008, indicated that no reply to the Notice to File Missing Parts of Nonprovisional Application, mailed August 22, 2007, had been received.

Petitioners assert that a complete reply to the Notice to File Missing Parts of Nonprovisional Application was timely filed

A review of the record reveals that Figure 3 was submitted October 15, 2007 in response to the Notice to File Missing Parts of Nonprovisional Application. Accordingly, the Notice of Incomplete Reply was mailed in error and is hereby **WITHDRAWN**.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to the Office of Patent Application Processing for further processing with an indication that Figure 3 was submitted October 15, 2007.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/890,937	08/06/2007	Suslov Nikolay	11773-006-999 (286838-999	9568

20583 7590 04/19/2010

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

EXAMINER	
JENNISON, BRIAN W	

ART UNIT	PAPER NUMBER
3742	

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.

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of
SUSLOV, NIKOLAY
Appl. No.: 11/890,937
Filed: Aug. 6, 2007
Atty. Docket No: 11773-006-999 (286838-999)
For: CATHODE ASSEMBLY AND METHOD FOR PULSED PLASMA GENERATION

: DECISION ON PETITION
: Under 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed April 8, 2010 to expunge information from the above identified application. The petition fee of $200.00 set forth in 37 CFR 1.17(g) has been charged to Deposit Account in accordance with the petition.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

In the petition, petitioner requests that the information submitted on April 8, 2010 is proprietary material for examiner's consideration under MPEP § 724. It is noted petitioner has not provided a clear identification of the information to be expunged without disclosure of the details in accordance with MPEP § 704.02. Therefore, this petition will not be decided until a clear identification of the information to be expunged is received.

In the petition, 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 decision on the petition is also 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 removed from the official file. Currently, the document in question has been stored separately in an artifact file folder for the remainder of prosecution. Petitioner is urged to provide a clear identification of the information to be expunged prior to the conclusion of the prosecution of the application.

Questions concerning this decision should be directed to Special Programs Examiner Henry C. Yuen at 571-272-4856.

Decision held in ABEYANCE.

Karen M. Young, Director
Technology Center 3700

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GERALD W. SPINKS
103 EDWARDS STREET
ABBEVILLE LA 70510

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OFFICE OF PETITIONS

In re Application of
LYNDE, Gerald D. et al.
Application No. 11/890,977
Filed: August 07, 2007
Attorney Docket No. **284BOT/US129**

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 November 19, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the assignee has agreed to assume responsibility for further prosecution of this case, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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: **CARL A ROWOLD**
BAKER HUGHES INCORPORATED
P.O. BOX 4740
HOUSTON, TX 77210-4740

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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November 17, 2009

Patent No. : 7,452,525 B1
Appl. No. : 11/890,979
Inventor(s) : Yuliya Berezkin, et al.
Issued : November 18, 2008
Title : **POLYURETHANE DISPERSIONS BASED ON POLYCARBONATE POLYOLS AND SUITABLE FOR USE IN PERSONAL CARE PRODUCTS**
Docket No. : **PO9026 / MD05-23B**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH PA 15205

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH PA 15205

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FEB 17 2010

In re Patent No. 7,452,525	:	
Issue Date: November 18, 2008	:	
Application No. 11/890,979	:	DECISION ON PETITION
Filed: August 08, 2007	:	
Attorney Docket No. PO9026 / MD05-23B	:	

This is a decision on the petition filed November 23, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the patentee failed to list the assignee "Bayer MaterialScience LLC, Pittsburgh, PA (US)" on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

As authorized the $130.00 petition fee and the $100.00 certificate of correction fee set forth under in 37 CFR 1.20(a) have been charged to the petitioner's deposit account.

Further, Office assignment records reflect that "Bayer MaterialScience LLC, Pittsburgh, PA (US)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

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

12 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

12 OCT 2007

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

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 225
MELVILLE NY 11747

In re Application of :
RATCLIFFE et al. :
Application No.: 11/890,989 : DECISION
Attorney Docket No.: 1414-7 PCT US :
For: TISSUE SCAFFOLD :

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 09 August 2007.

BACKGROUND

On 11 May 2005, applicants filed international application PCT/US2005/016393 which designated the U.S. and claimed a priority date of 11 May 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 24 November 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 November 2006 (11 November 2006 being a Saturday).

On 09 August 2007, applicants filed, *inter alia*, a transmittal letter requesting filing of a continuation of international application number PCT/US2005/016393,[1] a specification, claims, abstract, drawings, and a petition under 37 CFR 1.137(b).

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), the filing of the present continuing application under 35 U.S.C. 111(a) on 09 August 2007 is accepted as an appropriate response under 37 CFR 1.137(b).

---

[1]The specification indicates that the instant application is a continuation of PCT/US05/116393. However, the correct international application number is PCT/US05/16393. This error should be corrected.

As to item (2), the petition fee was paid on 09 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) to revive international application PCT/US2005/016393 is hereby **GRANTED** as to the National stage in the United States of America for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/890,989.

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.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

10/12/2007 SBASHEIR 00000001 502140 11890989
Sale Ref: 00000001 DA#: 502140 11890989
01 FC:2453 750.00 DA

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OFFICE OF PETITIONS

PATENTABILITY ASSOCIATES
P.O. BOX 9551
SAN JOSE, CA 95157

In re Application of
Richard K. Williams
Application No. 11/890,994
Filed: August 8, 2007
Attorney Docket No. AATI-22-DS-US

DECISION ON PETITION

This is a decision on the petition, filed June 12, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of August 22, 2007, which set a TWO (2) month period for reply. A reply was due on or before October 22, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on November 26, 2007 (certificate of mail date November 21, 2007 was provided), of a preliminary amendment; petition for extension of time; declaration and replacement drawings. A copy of the previously submitted reply accompanies the petition.

The response acknowledged as having been received in the USPTO on November 26, 2007, is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the USPTO.

Additionally, Office records indicate that some of the papers submitted on November 26, 2007, identified the application no. as 11/890,944 instead of 11/890, 994. Therefore, the papers were placed in application no. 11/890,944. The papers submitted on November 26, 2007 will be placed in the intended application no. 11/890,994.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to the Office of Patent Application Processing. Afterwards, the application will be referred to Technology Center Art Unit 2874.

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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MAY 24 2010

OFFICE OF PETITIONS

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

In re Application of :
DUBIN, Valery M. et al. :
Application No. 11/890,997 : DECISION ON PETITION
Filed: August 07, 2007 : TO WITHDRAW
Attorney Docket No. **110109-3** : FROM RECORD
:

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 13, 2010.

The request is not approved because it is moot.

A review of the file record indicates that the power of attorney to BLACK LOWE & GRAHAM, PLLC has been revoked by the assignee of the patent application on May 10, 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 Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **NUTTER MCCLENNEN & FISH LLP**
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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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DEAN A. CRAINE
SUITE 140
400-112TH AVENUE NE
BELLEVUE, WA 98004

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APR 01 2010

OFFICE OF PETITIONS

In re Application of
David Edge
Application No. 11/890,999
Filed: August 7, 2007
Attorney Docket No. EDGE 101

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed January 7, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw practitioners associated with customer number 28009, when the Oath/Declaration and Power of Attorney filed on August 7, 2007 originally granted power to the attorneys/agents individually.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Mr. David Edge
9413 NE 121st Place
Kirkland, WA 98034

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Kil et al.	:	
Application No. 11/891,011	:	ON PETITION
Filed: August 8, 2007	:	
Attorney Docket No. 68564 (51529)	:	

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

This application was held abandoned for failure to timely respond to the Office action of October 24, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 24, 2009.

Petitioner states that a timely reply was mailed via certificate of mailing on March 24, 2009, which included the following papers: 1) Amendment in Response to Non-Final Office Action (4 pages), 2) Amendment Transmittal (1 page), 3) Certificate of Transmission (1 page), and 4) Petition for two (2) Month Extension of Time (1 page). Petitioner has also submitted a copy of the previously mailed correspondence.

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 does not satisfy item (3) as listed above. Petitioner has failed to submit a copy of the sending unit's report confirming that the facsimile transmission was successful.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620.00 petition fee.

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

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

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

By hand: Customer Window located at:

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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JAN 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Kil et al.	:	
Application No. 11/891,011	:	ON PETITION
Filed: August 8,2007	:	
Attorney Docket No. 68564 (51529)	:	

This is a decision on the renewed petition, filed August 24, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of October 24, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 24, 2009.

As stated in the previous decision, petitioner states that a timely reply was mailed via certificate of mailing on March 24, 2009, which included the following papers: 1) Amendment in Response to Non-Final Office Action (4 pages), 2) Amendment Transmittal (1 page), 3)Certificate of Transmission (1 page) and 4) Petition for two (2) month Extension of Time (1 page). Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated March 24, 2009, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers – however, petitioner has now supplied copies with both petitions. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of October 24, 2008 is hereby withdrawn and the application restored to pending status.

The copies of the reply received with the petitions will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on March 24, 2008.

This application is being referred to Technology Center AU 1797 for appropriate action in the normal course of business on the reply received with petition.

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

Michael A. Guth
2-2905 East Cliff Drive
Santa Cruz, CA 95062

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of :
Dana W. Freeman :
Application No. 11/891,064 : DECISION ON PETITION
Filed: August 7, 2007 :
Attorney Docket No. 1104-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed August 21, 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 22, 2007. A Notice of Abandonment was mailed on May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed oath or declaration, with the required $65.00 fee, basic filing fee of $155, search fee of $255 and examination fee of $105, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the oath and declaration, basic filing fee, search fee and examination fees are accepted as being unintentionally delayed.

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 of Michael A. Guth appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received June 23, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE SC 29602-0447

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of
LANG, Werner et al.
Application No. 11/891,154
Filed: August 09, 2007
Attorney Docket No. **MEKRA.06**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 22, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Cort Flint on behalf of all attorneys of record who are associated with customer No. 27863. All attorneys/agents associated with the Customer Number 27863 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DR. WERNER LANG**
MUHLLEITE 48
ERGERSHEIM 91465
DE

cc: **MEKRA LANG GMBH & CO. KG**
SCHUCKERSTRASSE 8-20
FURTH 90765
DE

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.
11/891,227	08/09/2007	Jong Rea Park	0003971USU/4167	1544

7590 09/23/2009

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

EXAMINER	
HAMO, PATRICK	
ART UNIT	PAPER NUMBER
3746	
MAIL DATE	DELIVERY MODE
09/23/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

Repln. Ref: 09/24/2009 NFARMER 0014044500
DA#:010467 Name/Number:11891227
FC: 9204 $500.00 CR

Adjustment date: 09/24/2009 NFARMER
08/13/2007 EAYALEW1 00000006 11891227
02 FC:1111 -500.00 DP

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

FEB 18 2009

Jonathan A. Bay
Attorney at Law
Suite 314
333 Park Central East
Springfield, MO 65806

In re application of Randall E. Arnall Application No. 11/891,312 Filed: August 9, 2007 For: PONTOON BOAT COVER SYSTEM WITHOUT RIDGE OR GUY POLES	:	DECISION ON PETITION TO ACCEPT LATE PAPER

This is in response to applicant's communication filed in the United States Patent and Trademark Office (USPTO) on January 7, 2009. That communication is being treated as a petition to accept a late paper.

The petition is **DISMISSED as moot**.

A review of the application file reveals that the original amendment pursuant to 37 CFR 1.116 was filed on January 23, 2008; however, it was entered into the electronic file with a submission date of January 23, 2006.

Since the original amendment in question is now in the file, there is no need to treat the petition on the merits and it is therefore dismissed as moot.

This application will be forwarded to the Supervisory Legal Instruments Examiner for entry of the after final amendment filed January 23, 2008, before forwarding to the examiner for consideration.

Teri P. Luu, Quality Assurance Specialist
Patent Technology Center 3600
(571) 272-7045

tpl: 02/18/09

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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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Barbeau, Smith and Reilly	:	DECISION ACCORDING STATUS
Application No. 11/891,341	:	UNDER 37 CFR 1.47(a)
Filed: 08/10/2007	:	
Atty Docket No. 37787-446490	:	
Title: RECHARGEABLE LIGHTING	:	
APPARATUS	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 26, 2008. Petitioners obtained an extension of time for response within the fourth month. Accordingly, the petition is filed timely.

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

Petitioners showed that the non-signing inventor constructively refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Daniel Reilly
23 Elmwood Avenue
Dedham, MA 02026

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MAR 31 2008

OFFICE OF PETITIONS

In re Application of :
Barbeau, Smith and Reilly :
Application No. 11/891,341 : LETTER
Filed: 08/10/2007 :
Atty Docket No. 37787-446490 :
Title: RECHARGEABLE LIGHTING :
APPARATUS :

Dear Mr. Reilly:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES MARC LEAS
LAW OFFICE OF
JAMES MARC LEAS
37 BUTLER DRIVE
S. BURLINGTON VT 05403

In re Application of	:	
Marvin	:	
Application No. 11/891,365	:	DECISION
Filed: 11 August, 2007	:	
Attorney Docket No. 188-001	:	

This is a decision on the petition filed on 17 September, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

> **NOTE:** Petitioner has chosen to combine his amendment and his petition pursuant to 37 C.F.R. §1.137(b). As one registered to practice before the Office, Petitioner is aware that such a practice is inappropriate. (*See*: *inter alia*, 37 C.F.R. §1.4(c).) A petition form is included with these papers for Petitioner's reference.

As to the Allegations
of Unintentional Delay

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

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 11 February, 2009 with reply due absent an extension of time on or before 11 May, 2009.

The application went abandoned by operation of law after midnight 11 May, 2009.

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

On 17 September, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

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

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

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

As to Allegations of
Unintentional Delay

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

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2832 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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

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

---

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BYRON JEFFREY MANLEY
5892 BRIDGEMONT PLACE
ACWORTH GA 30101

COPY MAILED

DEC 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Manley et al.	:	
Application No. 11/891,380	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Title: Template And Method To Prepare Various Fabrics To Receive A Decorative Edging	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly and timely pay the issue and publication fees on or before September 23, 2009, as required by the Notice of Allowance and Fee(s) Due mailed June 23, 2009. Accordingly, the date of abandonment of this application is September 24, 2009. A Notice of Abandonment was mailed October 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and publication fee of $300.00 (previously paid July 6, 2009); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

COPY MAILED

DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Ronald E. Paulsen et al. :
Application No. 11/891,392 : DECISION ON PETITION
Filed: August 9, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 6928P027 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 9, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of one of the applicant's driver's license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2812 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of :
Randall J. Mrsny :
Application No. 11/891,475 : DECISION ON PETITION
Filed: August 8, 2007 : TO WITHDRAW FROM
Attorney Docket No. 10901-035-999 (CAM:624239 : RECORD

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed May 12, 2010.

The request is **APPROVED**.

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

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

The request to change the correspondence cannot be accepted since it is not of the sole inventor or the intervening assignee that complied with the requirements of 37 CFR 3.73(b)[1]. Therefore, all future communications from the Office will continue to be directed to the above listed address until otherwise properly notified by the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Trinity Biosystems, Inc.
c/o Trinity (assignment for the benefit of creditors), LLC
Attn: Colin Savage
1100 LaAvenida Street, Building A
Mountain View, CA 94043

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

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 D. MONTGOMERY
1685 WEST 12TH STREET
RENO, NV 89503

COPY MAILED

AUG 24 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Montgomery, Robert D. :
Application No. 11/891,476 :
Filed: August 10, 2007 :
Title: AESTHETIC, MULTIPURPOSE, CABINETRY ASSEMBLY FOR USE WITHIN A LAVATORY AND METHOD OF INSTALLATION :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 10, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the application. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, it will be referred to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

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

SAM R. McCOY Jr.
P.O. BOX 2108
MOUNT PLEASANT, SC 29465

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SEP 17 2008

In re Application of	:	
Todd Anthony Layt	:	
Application No. 11/891,490	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No: 20060810-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 24, 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 25, 2007. A Notice of Abandonment was mailed May 5, 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.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Liana Walsh
Petition Examiner
Office of Petitions

cc: Todd Anthony Layt
P.O. Box 1011
Richmond NSW 2753 Australia

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

Sam R. McCoy Jr.
P.O. Box 2108
Mount Pleasant SC 29465

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Todd Anthony Layt	:	
Application No. 11/891,491	:	DECISION ON PETITION
Filed: August 10, 2007	:	
Attorney Docket No. 20060810-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed August 24, 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 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Office of Patent Applications Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Todd Anthony Layt
P.O. Box 1011
Richmond NSW 2753 Australia

Application No: 11/891,491 Date: 9/5/08

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: May 30, 2008

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 Signed by Inventor

Mail Date of Office Action: 8/24/07

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: 10/25/07

Type of reply received: Drawings

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

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)

Fee Codes

1453/2453	*$1540/$770*	*502/510 Petitions*

Paralegal: _____ ( ) Dismissed (✓) Granted

MAG:01/07

OIPE
MAY 30 2008
PATENT & TRADEMARK OFFICE

6-2-08

IFW DAC

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor: Todd Anthony Layt

Application No.: 11/891,491 Art Unit: 1661

Filed: 08/10/2007 Examiner: unknown

Title: Syzygium floribundum plant named 'DOW20'

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 _____(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.

06/02/2008 HLE333 00000016 11891491
01 FC:2453 770.00 OP

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.

Todd Layt
Signature

5/22/2008
Date

Todd Anthony Layt
Typed or printed name

11/891,490
Registration Number, if applicable

P O Box 1011
Address

01161-245772977
Telephone Number

Richmond NSW 2753 Australia
Address

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

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

I hereby certify that this correspondence is being:

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

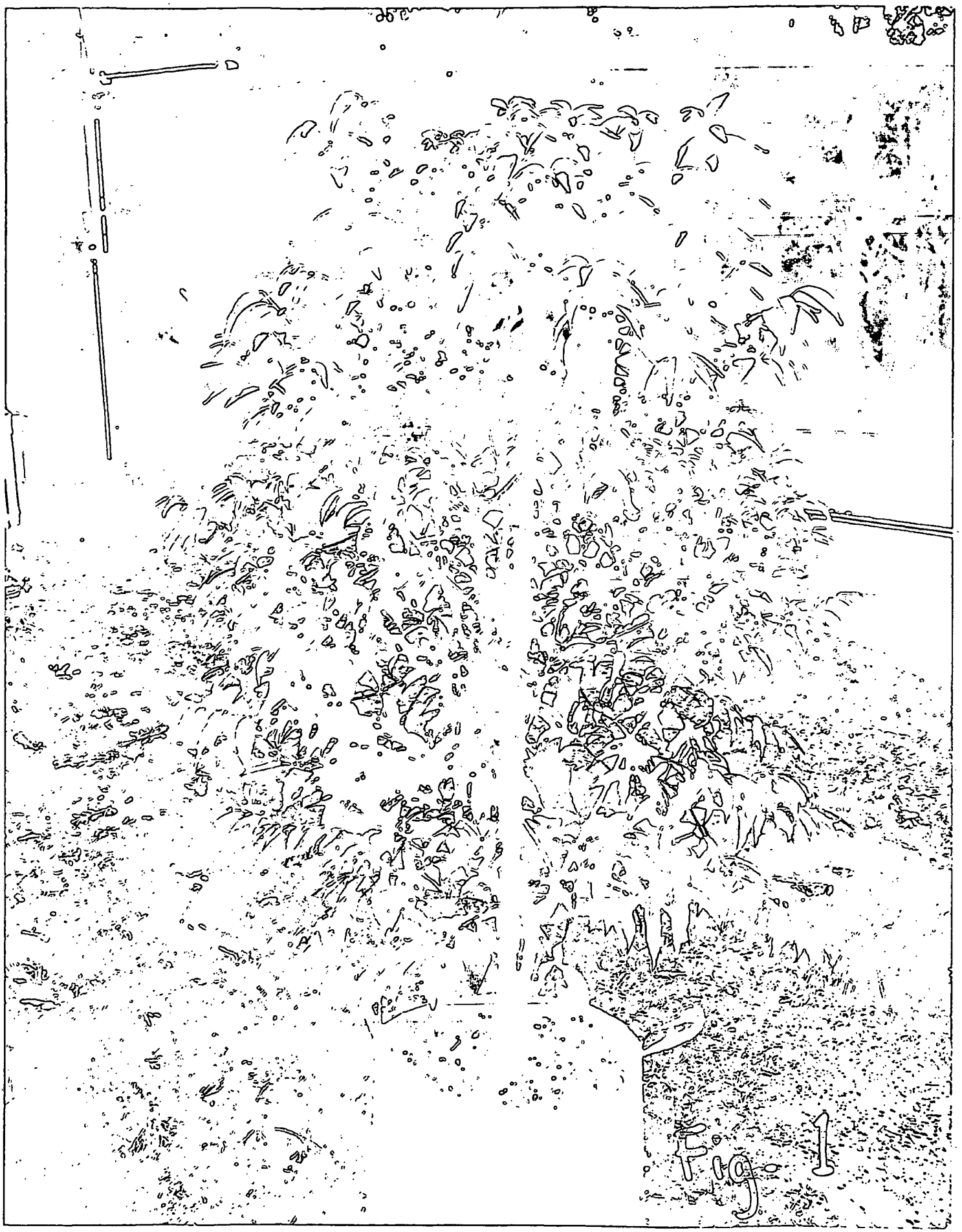
☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

5/27/2008
Date

Sam McCoy
Signature

Sam McCoy
Typed or printed name of person signing certificate

Best Available Copy



Best Available Copy

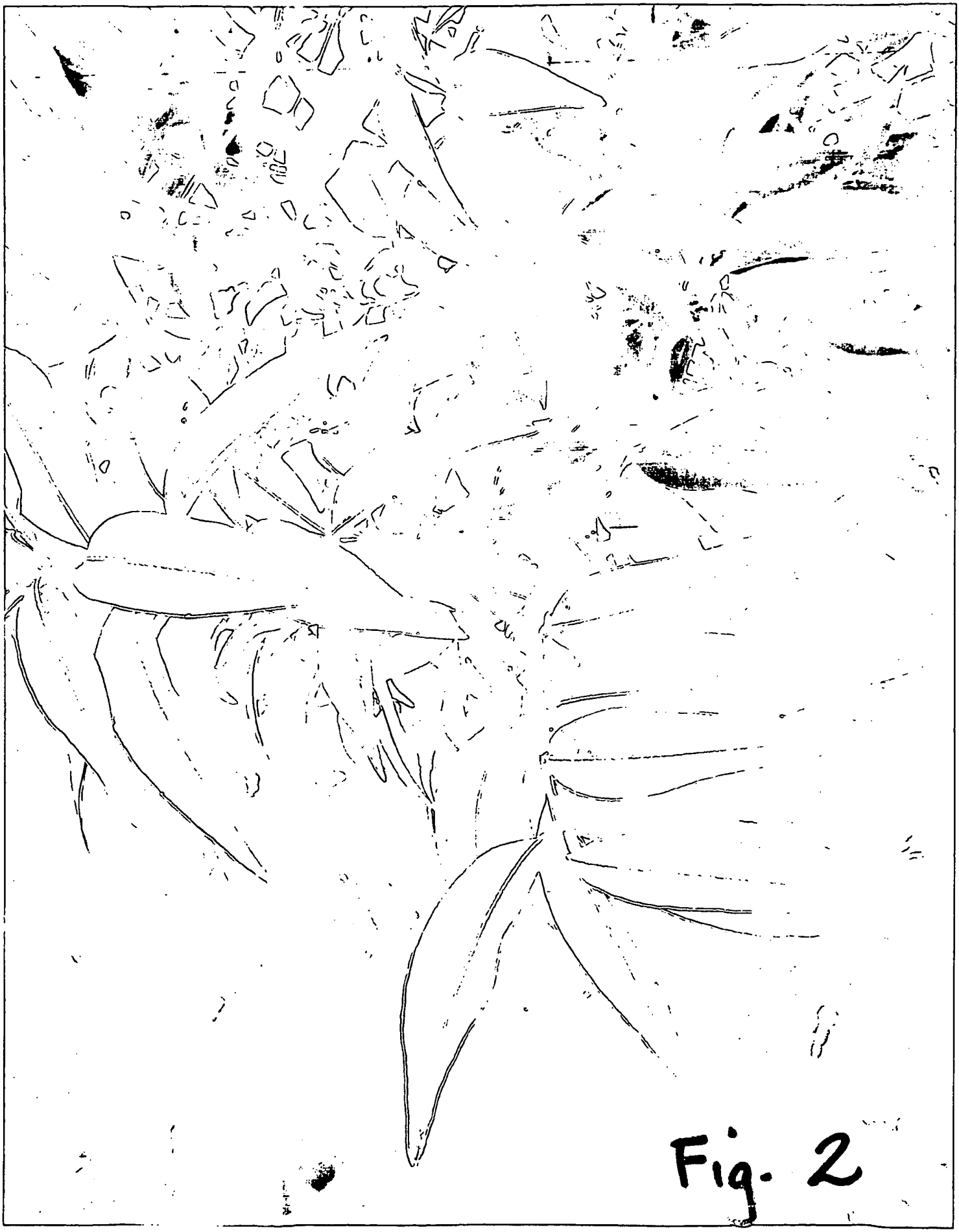


Fig. 2

Best Available Copy

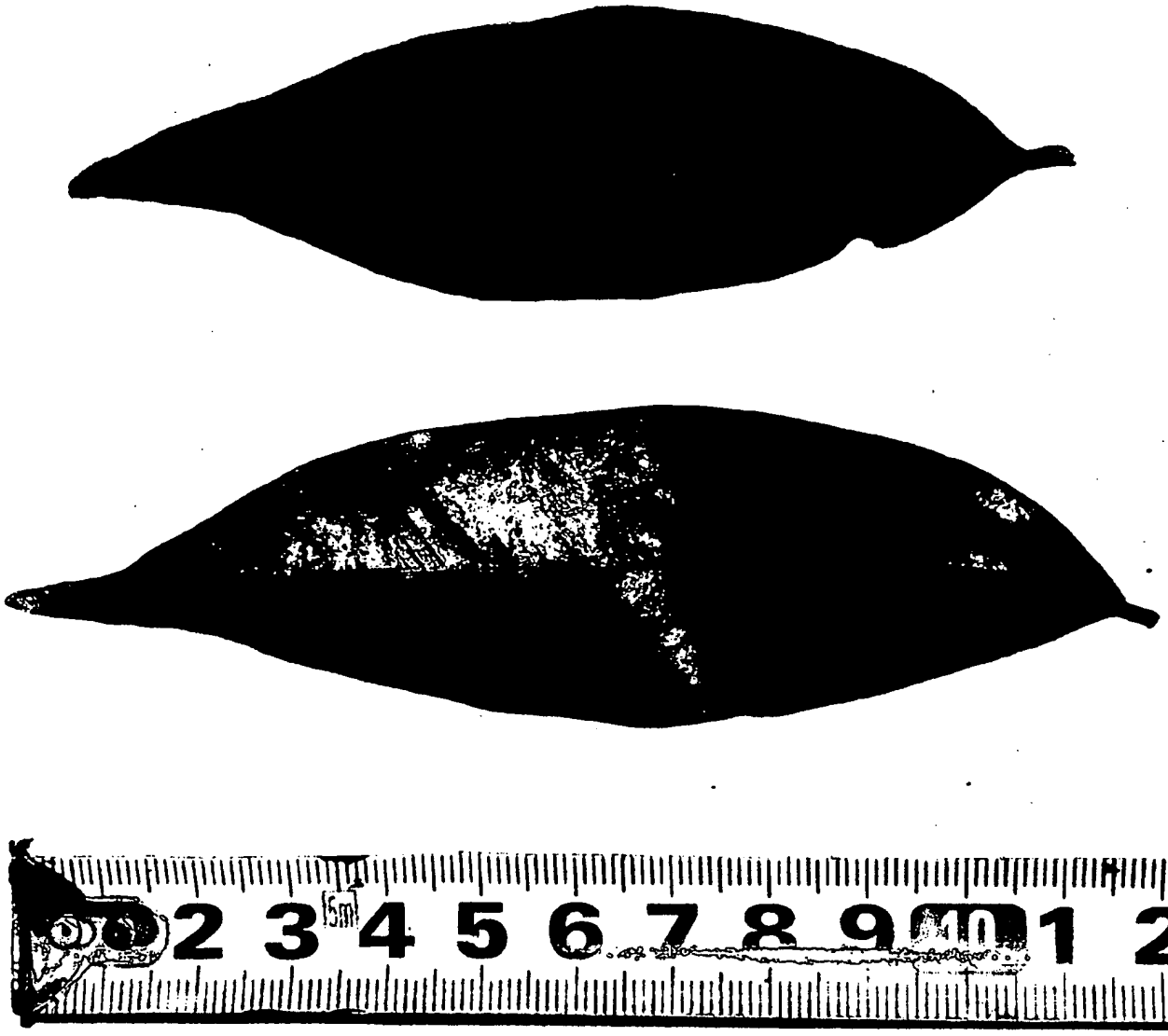


Fig. 3

OIPE
MAY 30 2008
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/891,491	08/10/2007	Todd Anthony Layt	20060810-2

CONFIRMATION NO. 1808

VersaScapes, LLC
P.O. Box 2108
Mount Pleasant, SC 29465

ABANDONMENT/TERMINATION LETTER

Date Mailed: 05/05/2008

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on08/24/2007.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or

3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

/nnguyen/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/891,491	08/10/2007	Todd Anthony Layt	20060810-2

CONFIRMATION NO. 1808

VersaScapes, LLC
P.O. Box 2108
Mount Pleasant, SC 29465

FORMALITIES LETTER

Date Mailed: 08/24/2007

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 drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
    - More than one figure is present and each figure is not labeled "Fig." with a consecutive Arabic numeral (1, 2, etc.) or an Arabic numeral and capital letter in the English alphabet (A, B, etc.)(see 37 CFR 1.84(u)(1)). See Figure(s) all. A brief description of the several views of the drawings (see 37 CFR 1.74) should be added or amended to correspond to the corrected numbering of the figures. See also 37 CFR 1.77(b)(7).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

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

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

Melvin K. Silverman and Assocs. PC
500 West Cypress Creek Road
Suite 350
Ft. Lauderdale, FL 33309

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APR 17 2008

OFFICE OF PETITIONS

In re Application of :
Thomas F. Gustafson et al. :
Application No. 11/891,507 : DECISION ON PETITION
Filed: August 10, 2007 : TO WITHDRAW
Attorney Docket No. 1215.020(PCT/US) : FROM RECORD

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

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "not an employee of Melvin K. Silverman P.C.," does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

There are no pending Office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Richard Brun
27662 Aliso Creek Road, #3215
Aliso Viejo, CA 92656

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ExxonMobil Chemical Company
Law technology
PO Box 2149
Baytown, TX 77522-2149

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DEC 2 0 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Spicer, et al. :
Application No. 11/891,515 :
Filed: August 10, 2007 :
Attorney Docket No. 2006EM107/2 :

This is a decision on the petition filed under 37 CFR 1.10(d), filed September 18, 2007, to accord the application a filing date of August 10, 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 EM048290148US showing a date-in of August 9, 2007. Petitioner filed the instant petition on September 18, 2007, asserting that the application should have been accorded a filing date of August 10, 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 Express Mail Post Office to Addressee service of the USPS who can show that the date-in on the Express Mail mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the 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 Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the 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 within one business day of the deposit of the correspondence in the Express 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 August 10, 2007.

The application file is being forwarded to the Office of Initial Patent Examination where the application will be accorded a filing date of August 10, 2007, and a corrected filing receipt generated.

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

for

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ExxonMobil Chemical Company
Law Technology
P.O. Box 2149
Baytown, TX 77522-2149

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Spicer, et al. :
Application No. 11/891,515 : DECISION ON PETITION
Filed: August 10, 2007 :
Attorney Docket No. 2006EM107/2 :

This is a decision on the petition under 37 CFR 1.10(d), filed September 18, 2007, to accord the application a filing date of August 10, 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 EM048290148US showing a date-in of August 9, 2007. By the instant petition, the argument is made that the application should have been accorded a filing date of August 10, 2007, as that was date the application was deposited with the United States Postal service (USPS) 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 August 10, 2007.

The application file is being forwarded to the Office of Initial Patent Examination where the application will be accorded a filing date of August 10, 2007, and a corrected filing receipt generated.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of
Clella GUSTIN, et al
Application No. 11/891,577
Filed: August 9, 2007
Attorney Docket No. 3975.PCRA.PT

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 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 Frank W. Compagni on behalf of all attorneys/agents or record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CELLA GUSTIN
830 EAST 400 NORTH
SPANISH FORK, UT 84660

MICHAEL A. LISI
HONIGMAN MILLER SCHWARTZ
AND COHN, LLP
38500 WOODWARD AVENUE, SUITE 100
BLOOMFIELD HILLS, MI 48304-5048

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DIW Feb-08

JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO CA 92121

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Rolando Garcia	:	DECISION REFUSING STATUS
Application Number: 11/891582	:	UNDER 37 CFR 1.47(b)
Filing Date: 08/09/2007	:	
Attorney Docket Number: 220US1	:	

This is a decision in response to the petition under 37 CFR 1.47(b) filed on January 24, 2008.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on August 9, 2007, without an executed oath or declaration. Accordingly, on August 24, 2007, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration as well as, *inter alia*, a surcharge for its late filing. A two (2) month period for reply was set.

In response, on January 24, 2008, petitioner filed a three (3) month extension of time, along with the present petition fee and surcharge.

Petitioners assert that a copy of the application was sent to the non-signing sole inventor, Rolando Garcia, but that he has failed to sign the declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks item (1).

The petition must be dismissed because sufficient proof has not been provided that the inventor received the application papers. In this regard, it is noted that the papers were received, as indicated on the FedEx tracking update, by "S. BALGOB." As such, the showing of record is that the papers were not received by the non-signing inventor, but by another individual, and it is unclear whether the non-signing inventor ever received the application.

Additionally, petitioner states that "Numerous attempts to reach Dr. Garcia have been heretofore unsuccessful". Petitioner has not provided details, however, of the efforts made to reach the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration.

If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22134

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Sep-08

JONATHAN SPANGLER
NuVasive, Inc.
7475 LUSK BOULEVARD
SAN DIEGO CA 92121

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SEP 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Rolando Garcia	:	DECISION ACCORDING STATUS
Application Number: 11/891582	:	UNDER 37 CFR 1.47(b)
Filing Date: 08/09/2007	:	
Attorney Docket Number: 220US1	:	

This is a decision in response to the renewed petition under 37 CFR 1.47(b) filed on July 28, 2008.

The petition is **GRANTED**.

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers via both Federal Express and e-mail. Specifically, petitioner has shown, via the statements of petitioner's registered patent practitioner, Jonathan Spangler, that a copy of the application was sent by both Federal Express and e-mail, on two occasions, to the non-signing inventor. Additionally, petitioner's counsel attempted to contact the non-signing inventor by phone, but was unsuccessful. Accordingly, petitioner has shown that the non-signing inventor constructively refused to sign the declaration.

In addition, petitioner has shown, via the Amendment and Re-Stated Clinical Advisor Agreeement signed by the non-signing inventor, that Rule 1.47(b) applicant NuVasive, Inc., has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by registered patent practitioner Spangler on behalf of the Rule 1.47(b) applicant, and has demonstrated that such action is necessary to avoid irreparable damages.

This 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 Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov
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Rolando Garcia
526 North Parkway
Golden Beach FL 33160

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SEP 17 2008

OFFICE OF PETITIONS

In re Application of
Rolando Garcia
Application No. 11/891,582
Filed: August 9, 2007
For: METHODS AND APPRATUS FOR TREATING SPINAL STENOSIS

Dear Mr. Garcia:

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 the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

JONATHAN SPANGLER
NUVASIVE, INC.
7475 LUSK BLVD
SAN DIEGO CA 92121

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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CHRISTOPHER D. HARRINGTON
SUITE 350
5300 CORPORATE GROVE DRIVE SE
GRAND RAPIDS MI 49512

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MAR 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Moore et al. :
Application No. 11/891,590 : DECISION ON PETITION
Filed: August 13, 2007 :
Attorney Docket No. INVY 08-301 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 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 Letter from the Office of Initial Patent Examination, mailed August 31, 2007. The Letter set a period for reply of two (2) months from the mail date of the Letter. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a $65.00 surcharge fee, the Basic filing fee of $75.00, the Search fee of $255.00, the Examination fee of $105.00, and the $50.00 returned check processing fee, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Although a Power of Attorney was submitted with the instant petition, it was not signed by both inventors and is hereby not accepted. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Quan Nguyen
6039 E. Grant Rd.
Tucson, AZ 85712

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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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of:	:	
Michael W. Dae	:	
Application No. 11/891684	:	DECISION NOTING
Filing or 371(c) Date: 08/09/2007	:	JOINDER OF
Attorney Docket Number: RADNT-036A	:	INVENTOR

This is in response to the Petition Under 37 CFR §1.47(a), filed February 28, 2008, and on the Transmittal of Signed Oath or Declaration, filed March 17, 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 the Office of Patent Application Processing for processing of the oath/declaration, and for continued processing 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

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.
11/891,695	08/13/2007	Young-Hyun Kim	5000-1-1006	3055

7590 03/21/2009

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
HAGAN, SEAN P	

ART UNIT	PAPER NUMBER
2828	

MAIL DATE	DELIVERY MODE
03/21/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
03/23/2009 NFARMER 0000166587

CHECK Refund Total: $500.00

Adjustment date: 03/23/2009 NFARMER
08/14/2007 EAYALEW1 00000056 11891695
02 FC:1111 -500.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/891,698	08/13/2007	Takeshi Miyazaki	07472/LH	2994

1933 7590 12/01/2009

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
DOWLING, WILLIAM C	

ART UNIT	PAPER NUMBER
2878	

MAIL DATE	DELIVERY MODE
12/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of
Takeshi MIYAZAKI
Application No.: 11/891,698
Filed: 13 August 2007
Attorney Docket No.: 07472/LH
For: LIGHT SOURCE AND PROJECTOR EMPLOYING LIGHT SOURCE

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 14 October 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH pilot program and petition to make special require:

1. The U.S. application is

    a. a Paris Convention application which either
        i. validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims,

    or

    b. a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
        i. validly claims priority to an application filed in the JPO, or
        ii. validly claims priority to a PCT application that contains no priority claims, or
        iii. contains no priority claim,

or

c. a so-called bypass application filed under 35 U.S.C. 111(a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
    i. validly claims priority to an application filed in the JPO, or
    ii. validly claims priority to a PCT application that contains no priority claims, or
    iii. contains no priority claim;

2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s);
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
    b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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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ECKHOFF & HOPPE
101 MONTGOMERY STREET
SUITE 2800
SAN FRANCISCO, CA 94104

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Paul D. Levin, et al. :
Application No. 11/891,701 : DECISION ON PETITION
Filed: August 13, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 9529/CIP8 : 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 declaration statement signed by applicant Paul D. Levin. 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 to await a reply to the Notice to File Missing Parts mailed August 29, 2007. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

Copied from 10891701 on 10/01/2007

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JACKSON WALKER, L.L.P.
112 E. PECAN, SUITE 2400
SAN ANTONIO, TX 78205

Mail Date: 04/20/2010

Applicant	: Gregory L. Hannah	: DECISION ON REQUEST FOR
Patent Number	: 7621691	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/891,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE, 20th FL
ATTN: PATENT ADMINISTRATOR
BOSTON, MA 02110

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SEP 05 2008

OFFICE OF PETITIONS

In re Application of :
Jeremy J. Blackburn, et. al. :
Application No. 11/891,719 : DECISION ON PETITION
Filed: August 13, 2007 :
Attorney Docket No. 069339-200100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 27, 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 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of three sheets of replacement drawings containing Figures 2-4, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

In additional to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37CFR 1.137(b), the United States Patent and Trademark Office received a payment of $820 for a four month extension of time on May 16, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $820 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Andrea Smith
Petitions Examiner
Office of Petitions

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CHARLES J. PRESCOTT, P.A.
SUITE 115
2033 WOOD STREET
SARASOTA FL 34237

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OFFICE OF PETITIONS

In re Application of :
VAN BRADFORD PALMER :
Application No. 11/891,739 :
Filed: August 13, 2007 :
Attorney Docket No. **P-2053** :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 the declaration of inventor Van Bradford Palmer, 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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JUAN C. VILLAR
9365 AEGEAN DRIVE
BOCA RATON FL 33496

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OFFICE OF PETITIONS

In re Application of :
Danielle C. Spagno, et al. :
Application No. 11/891,766 : DECISION ON PETITION
Filed: August 13, 2008 : TO WITHDRAW
Attorney Docket No. DANIELLE-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 30, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Juan C. Villar does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIELLE C. SPANGO AND
DEBRA J. HARRIS
9366 AEGEAN DRIVE
BOCA RATON, FL 33496

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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA, CA 95050

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JAN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Jian-Hui LU, *et al.*	:	
Application No. 11/891,794	:	DECISION GRANTING PETITION
Filed: August 13, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **US11118**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 17, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the under signed at (571) 272-7253.

This application is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Daniel J. Burnham
Nixon Peabody LLP
48th Floor
161 North Clark Street
Chicago, IL 60601-3213

Mail Date: 04/21/2010

Applicant	: Par-Olov Ostman	: DECISION ON REQUEST FOR
Patent Number	: 7632095	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/891,817	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **100** 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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FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of :
Jeffrey L. Browning et al. :
Application No. 11/891,847 : DECISION DISMISSING PETITIONS
Filed: August 13, 2007 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. BGN-A013CN2 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 14, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications 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) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Petitioner indicates that he believes no petition fee is due. However, the originally filed Application Data Sheet (ADS) controls the priority claim. The ADS, filed August 13, 2007, incorrectly lists application SN 09/299,139 as a national stage filing rather than a continuation filed under 35 USC 111(a). Therefore, the surcharge under 37 CFR 1.78(a)(3) is required. This surcharge of $1,410 is charged to petitioner's deposit account as authorized by petitioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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JOHN E. BENNETT
1570 HOMEWOOD DR.
ALTADENA, CA 91001

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Bennett, John E. :
Application No. 11/891,906 : ON PETITION
Filed: August 14, 2007 :
Title: DYNAMIC GOLF CLUB HEADS :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, along with a copy of his driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, it will be referred to its respective Technology Center for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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1570 HOMEWOOD DR.
ALTADENA, CA 91001

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OFFICE OF PETITIONS

In re Application of	:	
Bennett, John E.	:	
Application No. 11/891,906	:	ON PETITION
Filed: August 14, 2007	:	
Title: DYNAMIC GOLF CLUB HEADS	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, along with a copy of his driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, it will be referred to its respective Technology Center for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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1570 HOMEWOOD DR.
ALTADENA, CA 91001

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OFFICE OF PETITIONS

In re Application of	:	
Bennett, John E.	:	
Application No. 11/891,906	:	ON PETITION
Filed: August 14, 2007	:	
Title: DYNAMIC GOLF CLUB HEADS	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, along with a copy of his driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, it will be referred to its respective Technology Center for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/891,931	08/14/2007	Kailash C. Jain	89190.081607/DP-316664	3437

7590 02/12/2010

Paul L. Marshall, Esq.
Delphi Technologies, Inc.
Mail Code 480410202
P.O. Box 5052
Troy, MI 48007

EXAMINER	
SIDDIQUEE, MUHAMMAD S	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
02/12/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Paul L. Marshall, Esq.
Delphi Technologies, Inc.
Mail Code 480410202
P.O. Box 5052
Troy MI 48007

FEB 1 3 2010

In re Application of	:	
Jain et al.	:	DECISION ON PETITION
Application No. 11/891,931	:	TO MAKE SPECIAL UNDER
Filed: 8/14/2007	:	THE GREEN TECHNOLOGY
Attorney Docket No. **89190.081607/DP-316664**	:	PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed 1/27/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102 and the pilot program as set forth in 74 FR 64666 must be directed to a nonprovisional application filed under 35 USC 111(a) or be a national stage entry under 35 USC 371, exclusive of any reissue applications and be filed prior to the date of the notice, December 8, 2009.

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition

must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived.

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Tom Dunn at 571-272-1171.

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of :
Speigel, et al. :
Application No. 11/891,964 : ON PETITION
Filed: August 14, 2007 :
Attorney Docket No.: 00170D1/HG :

This is a decision on the petition filed January 14, 2009. The petition is being treated under 37 CFR 1.182.

The petition is **dismissed**.

The application was filed on August 14, 2007. On December 17, 2008, the Office of Patent Application Processing mailed a Notice of Omitted Items ("Notice") stating that the application had been accorded a filing date of August 14, 2007, but that Figures 2A-C, as described in the specification, appeared to have been omitted. The notice allowed an extendable period for reply of two-months from its mailing date.

In response, on January 14, 2009, applicant filed the present petition and an amendment pursuant to 37 CFR 1.57 requesting entry of Figure 2A-C which are contained in a prior filed non-provisional application to which the subject application claims priority. Section 201.06(c) of the *Manual of Patent Examination Procedure*, provides, in pertinent part, that:

> If a continuation or divisional application as originally filed on or after September 21, 2004 does not include an explicit incorporation by reference statement and is entitled to a filing date despite the inadvertent omission of a portion of the prior application(s), applicant may be permitted to add the omitted material by way of an amendment under 37 CFR 1.57(a). Such an amendment must be made within any time period set by the Office. See 37 CFR 1.57(a)(1).
>
> If an application as originally filed included a proper explicit incorporation by reference statement (or an explicit incorporation by reference statement that has been made effective under 37 CFR 1.57(g)), the omitted specification page(s) and/or drawing figure(s) may be added by amendment provided the omitted item(s) contains only subject matter in common with a document that has been properly incorporated by reference. If the Office identified the omitted item(s) in a "Notice of Omitted Item(s)," applicant need **not** respond to the "Notice of Omitted Item(s)." Applicant should, however, submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporation by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57, applicant's are required to amend the application to include the inadvertently omitted material, and supply a copy of the prior-filed application and identify where the inadvertently omitted portion of the drawing can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a)(3) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application was determined to be entitled to a filing date, however. Accordingly, a petition is not required to amend the application pursuant to 37 CFR 1.57 either.

In view of the explicit incorporation by reference of the prior application found in the application transmittal sheet filed August 14, 2007, Figures 2A-C are not new matter if they are a part of the disclosure of the prior application.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of August 14, 2007.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the preliminary amendment filed January 14, 2009.

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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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.
11/892,009	08/17/2007	Chul-Hong Kim	P58369	5309

7590 10/22/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HORIKOSHI, STEVEN Y

ART UNIT	PAPER NUMBER
2879	

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.

Niomi Farmer

Patent Publication Branch
Office of Data Management

Repln. Ref: 10/22/2009 NFARMER 0317403200
DAN:024943 Name/Number:11892009
FC: 9204 $500.00 CR

Adjustment date: 10/22/2009 NFARMER
08/20/2007 CNGUYEN2 00000092 11892009
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

Applicants: Umana, et al.
Appl. No.: 11/892,010
Filing Date: August 17, 2007
Title: ANTIGEN BINDING MOLECULES THAT BIND EGFR, VECTORS ENCODING SAME, AND USES THEREOF
Attorney Docket No.: 1975.0430005/TJS/SAS/C-L
Pub. No.: 2008/0286277 A1
Pub. Date: November 20, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 21, 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 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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WASHINGTON DC 20005

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of
Woodward, et al.
Application No. 11/892,015
Filed: August 17, 2007
Attorney Docket No. 222.4920006
For: METHOD, APPARATUS AND PROGRAM PRODUCT FOR MEDIA IDENTIFICATION AND TRACKING ASSOCIATED USER PREFERENCES

ON PETITION

This decision is in response to the petition under 37 CFR 1.47(a) filed on August 17, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

Petitioners have submitted a copy of the declaration filed in Application No. 11/445,025, of which the instant filing is a continuation application. It is noted Application No. 11/445,025 is a divisional application of Application No. 10/142,731. A decision, mailed on April 7, 2003, granted Rule § 1.47 status to Application No. 10/142,731. Application No.11/445,025 obtained Rule 47 status based on Rule 47 status being accorded to its parent application.

Pursuant to 37 CFR 1.63(d), petitioners may obtain Rule § 1.47 status in the present "grand child" application if petitioners file a copy of the April 7, 2003 decision granting § 1.47 status in Application No. 10/142,731 with a reconsideration petition.

No petition fee has been or will be charged in connection with this matter.

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 regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Woodward, et al. :
Application No. 11/892,015 : ON PETITION
Filed: August 17, 2007 :
Attorney Docket No. 222.4920006 :
For: METHOD, APPARATUS AND PROGRAM PRODUCT FOR MEDIA IDENTIFICATION AND TRACKING ASSOCIATED USER PREFERENCES

This decision is in response to the reconsideration petition under 37 CFR 1.47(a) filed on December 5, 2007.

The petition is **GRANTED**.

Petitioners have submitted a copy of the declaration filed in Application No. 11/445,025, of which the instant filing is a continuation application. It is noted Application No. 11/445,025 is a divisional application of Application No. 10/142,731. A decision, mailed on April 7, 2003, granted Rule § 1.47 status to Application No. 10/142,731. Application No.11/445,025 obtained Rule 47 status based on Rule 47 status being accorded to its parent application. Petitioners have submitted a copy of the April 7, 2003 decision granting § 1.47 status in Application No. 10/142,731..

Pursuant to 37 CFR 1.63(d), petitioners have obtained Rule § 1.47 status in the present "grand child" application.

No petition fee has been or will be charged in connection with this matter.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the previous application has been attempted.

After the mailing of this decision, the application will be returned to the Office of Patent Application Processing for continued pre-exam processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20007

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Alston :
Filed: August 17, 2007 : ON PETITION
Application No. 11/892,021 :
Atty. Dkt. No.: 075397-0115 :

This decision is in response to the petition filed, September 10, 2007, to accord the above-identified application a filing date of August 17, 2007 with drawings as part of the original application as filed.

The application was filed August 17, 2007. The Notice mailed September 6, 2007 indicated that the application had not been accorded a filing date because the application was deposited without drawings as required per 35 USC 113.

In response, petitioner herein argues that the application as deposited included 11 sheets of drawings and have presented as proof of mailing and proof of receipt of 11 sheets of drawings a copy of a return postcard date stamped by the Office on August 17, 2007. A copy of figures in question was submitted with the instant petition.

The original 11 sheets of drawings have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of August 17, 2007 is GRANTED.

Since the original 11 sheets of drawings cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted $400.00 petition fee has been requested from the Finance Office, Refund Section on behalf of petition and will be issued in due course.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of August 17, 2007 with 11 sheets of drawings as part of the application papers as originally filed.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Shoko Shimmura	:	
Application No. 11/892,060	:	DECISION GRANTING PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016907-2046	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 15, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

- The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[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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MUNCY, GEISSLER, OLDS & LOWE, PLLC
P.O. BOX 1364
FAIRFAX VA 22038-1364

In re Application of	:	
BUEHNER, Alfons	:	
Application No. 11/892,156	:	DECISION ON PETITION
Filed: August 20, 2007	:	TO WITHDRAW
Attorney Docket No. **1005/0133PUS1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 03, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Martin Geissler on behalf of all attorneys of record who are associated with customer No. 60601. All attorneys/agents associated with the Customer Number 60601 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ALFONS BUEHNER**
AM GARTENWEG 6
HOHENROTH D-97618
GERMANY

cc: **PREH GMBH**
ANDER STADTHALLE
BAD NEUSTADT D-97616
GERMANY

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D-70565 STUTTGART DE
GERMANY

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OFFICE OF PETITIONS

In re Application of :
Bruder, et al. :
Application No. 11/892,180 : DECISION
Filed/Deposited: 20 August, 2007 :
Attorney Docket No. P8998US :

This is a decision on the petition filed on 24 August, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive 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 "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 December, 2008, with reply due absent extension of time on or before 31 March, 2009.

The application went abandoned by operation of law after midnight 31 March, 2009.

The Office mailed the Notice of Abandonment on 7 August, 2009.

On 24 August, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred timely filing of a reply on 23 March, 2009, in the form of an amendment, but with no evidence of an Office FAX Receipt Acknowledgement setting forth the date, time and number of pages received by the Office and recitation by Petitioner of the presence of a FAX transmittal document. Thus, while Petitioner suggests that he submitted a paper, there is no showing of receipt thereof by the Office. On any renewed petition, Petitioner must address this deficiency.

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing

(i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

---

[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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.[5]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

---

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] 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).

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

KOHLER SCHMID MOEBUS
RUPPMANNSTRASSE 27
D-70565 STUTTGART DE
GERMANY

COPY MAILED
MAR 08 2010

In re Application of	:	
Bruder, et al.	:	
Application No. 11/892,180	:	DECISION
Filed/Deposited: 20 August, 2007	:	
Attorney Docket No. P8998US	:	

This is a decision on the petition filed on 16 November, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE: It is noted that Petitioner made certain statements, which statements are not fact but rather are presumptions on the part of Petitioner. As discussed below, these presumptions are not correct.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 December, 2008, with reply due absent extension of time on or before 31 March, 2009.

The application went abandoned by operation of law after midnight 31 March, 2009.

The Office mailed the Notice of Abandonment on 7 August, 2009.

On 24 August, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181 and averred timely filing of a reply on 23 March, 2009, in the form of an amendment, but with no evidence of an Office FAX Receipt Acknowledgement setting forth the date, time and number of pages received by the Office and recitation by Petitioner of the presence of a FAX transmittal document. Thus, while Petitioner suggested that he submitted a paper, there is no showing of receipt thereof by the Office. On any renewed petition, Petitioner was instructed to address this deficiency and the petition was dismissed on 24 September, 2009.

On 16 November, 2009, Petitioner re-advanced his petition, pointed to the copy of the reply provided on 24 August, 2009, and averred to have been timely submitted, and supplied therewith a statement by the person averred to have transmitted the FAX and a translation of information on the transmittal sheet deemed material by Petitioner. Petitioner suggested in his petition that the transmittal document submitted by him evidencing transmittal also evidenced receipt by the Office. This is not correct. The only evidence of receipt of a FAX by the Office is, as indicated above, an Office FAX Receipt Acknowledgement setting forth the date, time and number of pages received by the Office. For whatever reason, Petitioner did not or otherwise appeared unable to provide that document. However, in the present context Petitioner supported his petition with a copy of the transmittal confirmation document and a statement by the person averred to have transmitted the FAX, as discussed below

Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard

receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of

[1] *See*: MPEP §711.03(c) (I)(B).

representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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.[5]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] 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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted** and the 7 August, 2009, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 3679 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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).

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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ATTN: MAQUITA WONG
THE HONG KONG POLYTECHNIC UNIVERSITY
SUITE 600, MAILBOX #119
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

COPY MAILED

NOV 0 4 2008

OFFICE OF PETITIONS

In re Application of :

CHAN, Albert Sun-Chi et al. :
Application No. 11/892,188 : DECISION ON PETITION
Filed: August 27, 2007 : TO WITHDRAW
Attorney Docket No. **IP-414A** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Robert M. DeWitty, the sole attorney of record. Robert M. DeWitty has been withdrawn as attorney 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 Albert Sun-Chi Chan at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALBERT SUN-CHI CHAN**
THE HONG KONG POLYTECHNIC UNIVERSITY
HUNGHOM, KOWLOON, HONG KONG

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/03/2010

Applicant	: Vitaly Andrianov	: DECISION ON REQUEST FOR
Patent Number	: 7643964	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/892,205	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lee & Morse, P.C.
3141 Fairview Park Drive
Suite 500
Falls Church, VA 22042

MAILED

AUG 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Tae-wan Kim et al.	:	
Application No. 11/892,219	:	DECISION ON PETITION
Filed: August 21, 2007	:	TO WITHDRAW
Attorney Docket No. 249/545 DIV	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Lee & Morse, P.C., 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 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: Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

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AUG 29 2008

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of
WEHNER, Volkmar et al.
Application No. 11/892,235
Filed: August 21, 2007
Attorney Docket No. **027433-0117**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Michele Simkin on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated with the Customer Number 22428have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 30, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **VOLKMAR WEHNER**
LINDENSTRASSE 1
97657 SANDBERG
GERMANY

cc: **M. FRANCOIS PROCHART**
CABINET HIRSCH & ASSOCIES
34, RUE DE BASSANO
75008 PARIS
FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 05/18/2010

Applicant	: Craig H. Meyer	: DECISION ON REQUEST FOR
Patent Number	: 7642777	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/892,261	: 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 **311** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,296	08/21/2007	Tetsuji Mitsuda	MNL-2018-1779	7586

23117 7590 09/10/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
MCCALL, ERIC SCOTT	

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
09/10/2009	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
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In re Patent No. MUKAI	:	
Appl No.: 11/892,296	:	**DECISION GRANTING**
Filed: August 21, 2007	:	**PETITION**
For: AIR-FUEL RATIO CONTROLLER FOR INTERNAL COMBUSTION ENGINE AND DIAGNOSIS APPARATUS FOR INTAKE SENSORS	:	*37 CFR 1.48(b)*

This is a decision on the petition filed June 25, 2008 to correct inventorship under 37 CFR 1.48(b).

The petition is granted.

The inventorship in this nonprovisional application has been changed by the deletion of Tetsuji Mitsuda.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Kim Gruto, SPE for Eric McCall
/Eric S. McCall/
Primary Examiner
Art Unit 2855
Technology Center 2800

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ARLINGTON, VA 22203

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Robert E. Bushnell & Law Firm
2029 K Street NW
Suite 600
Washington DC 20006-1004

In re Application of Richard G. Hyatt, Jr. Application No. 11/892,305 Filed: August 21, 2007 Attorney Docket No.: P53821D For: ELECTROMECHANICAL CYLINDER PLUG	:	DECISION ON PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37 CFR 1.181

This decision is in response to applicant's petition to invoke supervisory authority under 37 CFR 1.181 filed October 13, 2009 requesting the withdrawal of the holding of non-compliant appeal briefs.

The petition is **DISMISSED**.

It is noted that applicant, in his petition, refers to "Paper No. 20090726" from the USPTO and statements contained therein (See applicant's petition pg. 1, lines 8 & 9; pg. 5, line 4; pg. 6, line 13; and pg. 8, lines 9& 16). There is no "Paper No. 20090726" in the file record. Accordingly, applicant's statements directed to this document cannot be considered in this decision since there is not any document in the file record attributed to this date: July 26, 2009.

A review of the file record reveals that applicant received a notice of non-compliant brief on both January 27, 2009 and August 11, 2009 for basically the same reason:

> Failure to "identify and map all independent claims on appeal (1, 3, 5 and 6) to specification by page and line number or paragraph number" (See notice of non-compliant brief mailed January 27, 2009).

Applicant basically asserts that there is no explicit requirement in 37 CFR 41.37 to do what is set forth in the notice of non-compliant brief mailed January 27, 2009 and applicant believes he has sufficiently complied with the rule.

In neither of applicant's briefs filed on December 9, 2008 and May 27, 2009 has applicant met the requirements of 37 CFR 41.37 with respect to the "Summary of claimed subject matter" (See MPEP 1205.02).

In each of applicant's briefs, there is no way to discern "the subject matter defined in each of the independent claims involved in the appeal". Applicant has simply given a general overview of applicant's device rather than a "concise explanation of the subject matter defined in each of the independent claims" as required by 37 CFR 41.37.

MPEP 1205.02, under the subsection entitled "(v) Summary of claimed subject matter", states the following:

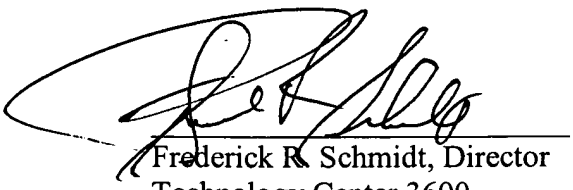
> "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which must refer to the specification by page and line number, and to the drawing, if any, by reference characters. While reference to page and line number of the specification requires somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter (emphasis added) is described in the application.".

This requirement has not been met in any of the briefs. The examiner's statement in the letter mailed August 11, 2009 is correct where it is noted that the brief filed May 27, 2009 still "fails to comply with 37 CFR 41.37 as previously indicated" with regard to what is required in 37 CFR 41.37 (c) (1) (v) as set forth above.

In the communication to applicant, mailed August 11, 2009, no time period for response was set or extended. The letter indicated that the "one-month time period set in the Notice of Non-Compliant Brief mailed 1/27/09 continues to run." Accordingly, the appeal is dismissed since applicant has failed to timely and fully reply to the notice of noncompliance (See MPEP 1205.03; 1215.04 and 37 CFR 41.37 (d)). Because no allowed claims remain in this application, this application is abandoned since no fully compliant brief has been filed, along with the requisite fee. Applicant may petition to revive the application and to reinstate the appeal.

It is noted that a brief was filed with the petition of October 13, 2009. Based upon a cursory review of this brief, it appears that this brief is also non-compliant.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571) 272-6856.



Frederick R. Schmidt, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

PMC 11/13/09

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JUN 25 2010

Robert E. Bushnell & Law Firm
2029 K Street NW
Suite 600
Washington DC 20006-1004

In re Application of
Richard G. Hyatt, Jr.
Application No. 11/892,305
Filed: August 21, 2007
For: ELECTROMECHANICAL CYLINDER PLUG

: DECISION ON RENEWED PETITION
: TO WITHDRAW THE NOTICE OF
: NON-COMPLIANCE
: UNDER 37 CFR 1.181
:

This decision is in response to applicant's renewed petition under 37 CFR 1.181 filed March 1, 2010 to request the withdrawal of the holding of non-compliant appeal briefs and withdrawal of the notice of abandonment.

The petition is **GRANTED**.

Applicant asserts that there is no explicit requirement in 37 CFR 41.37 that applicant is required "to set forth the claim language of each independent claim separately and in its entirely and map to the specification" as indicated in the notice of non-compliant brief mailed January 27, 2009. Furthermore, applicant believes he has sufficiently complied with the rule.

A review of the file record reveals that applicant received a notice of non-compliant brief on both January 27, 2009 and August 11, 2009 for failing to "identify and map all independent claims on appeal (1, 3, 5 and 6) to specification by page and line number or paragraph number" (See notice of non-compliant brief mailed January 27, 2009).

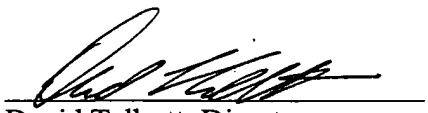
37 CFR § 41.37 (c)(1)(v) on Summary of claimed subject matter states that:

> "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters."

Upon further consideration, it appears that applicant has sufficiently complied with the rule in applicant's brief filed on May 27, 2009. Accordingly, applicant has met the requirements of 37 CFR 41.37 with respect to the "Summary of claimed subject matter" (See MPEP 1205.02).

Further, application should not have been abandoned since applicant has submitted a timely filed compliant brief. Accordingly, the abandonment is hereby withdrawn and the application will forwarded to the examiner to act on the merits of the case.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571) 272-6856.



David Talbott, Director
Technology Center 3600
(571) 272-5150

PMC/LM: 6/7/10

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ARLINGTON, VA 22215

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of :
PETER F. KADOR et al :
Application No. 11/892,307 : DECISION ON PETITION
Filed: August 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 21, 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 statements of inventors Milton Wyman and Daniel Betts, attesting to their age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1618 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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ARLINGTON, VA 22215

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
JOSEPH R. SOLTESIZ et al :
Application No. 11/892,309 : DECISION ON PETITION
Filed: August 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 21, 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 and declaration by Joseph Soltesiz, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3637 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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WARREN SKLAR
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVE
19TH FL
CLEVELAND, OH 44115

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
James L. Fergason :
Application No. 11/892,310 : DECISION ON PETITION
Filed: August 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 8733. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 7, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's drivers license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2629 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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Suite 600, Mailbox #119
1800 Diagonal Road
Alexandria, VA 22314

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SEP 24 2008

In re Application of
Jue Peng et al.
Application No. 11/892,313
Filed: August 22, 2007
Attorney Docket No. IP-409A

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 August 21, 2008.

The request is **APPROVED**.

A review of the file record indicates that Robert M. DeWitty: (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 M. DeWitty has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address has been changed to that of the first signing inventor.

Applicant is reminded that there is no attorney of record at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jue Peng
The Hong Kong Polytechnic University
Hung Hom
Kowloon, Hong Kong

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/892,313	08/22/2007	Jue Peng	IP-409A

CONFIRMATION NO. 7823

POWER OF ATTORNEY NOTICE

ATTN: Maquita Wong
The Hong Kong Polytechnic University
Suite 600, Mailbox #119
1800 Diagonal Road
Alexandria, VA 22314

OC000000032241789

Date Mailed: 09/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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NOV 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Kota Yamaguchi	:	
Application No. 11/892,357	:	DECISION GRANTING PETITION
Filed: August 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 108397-00248	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 12, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2863 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed .

Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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112 South West Street
Alexandria VA 22314

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Francis Vanderbist, et al. :
Application No. 11/892,363 :
Filed: August 22, 2007 :
Attorney Docket No. 31121-22 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed January 14, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **GALEPHAR PHARMACEUTICAL RESEARCH INC.**
c/o William E. Beaumont
627 South Asaph Street
Alexandria, VA 22314

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JUL 19 2010

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

In re application of
Obata et al.
Application No. 11/892,364
Filed: August 22, 2007
For: FRICTIONAL COUPLING DEVICE SUPPORT STRUCTURE AND TRANSMISSION

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed May 21, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:
(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; there is no copy of the allowable/patentable claims in the file, and there is no English translation thereof and a statement that the English translation is accurate in the file.
(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); In the remarks filed on May 21, 2009 applicant stated that "Claim 1 has been amended to correspond to allowed Japanese claim 1. Claims 5 and 14 have been cancelled". However, since we don't have a copy of the allowable/patentable claims from the JPO, we can not determined if the claims 1 – 4 and 6 – 13 and 15 – 16 are corresponded to the allowable/patentable claims from the JPO.
Note, based on the "claims correspondence table" submitted by applicant on May 21, 2010 it appears that the claims 1 – 4 and 6-13 and 15 -16 are not sufficiently correspond to the allowable/patentable claims in the JPO application.

Applicant is requested to amend the claims to "sufficiently correspond" to the allowable/patentable claims of JPO 2006-242923.

(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.

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 Mikado Buiz, Quality Assurance Specialist, at (571) 272-6578.

/ Mikado Buiz /
Mikado Buiz,
Quality Assurance Specialist
Technology Center 3600

MB/MB: 07/16/10

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JUL 26 2010

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

In re application of
Obata et al.
Application No. 11/892,364
Filed: August 22, 2007
For: FRICTIONAL COUPLING DEVICE SUPPORT STRUCTURE AND TRANSMISSION

: **DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed May 21, 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:
((3) 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); Claims 2, 6, 9 and 10 have no corresponding counterpart patent claims in the JPO.

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 Mikado Buiz, Quality Assurance Specialist, at (571) 272-6578.

/ Mikado Buiz /

Mikado Buiz,
Quality Assurance Specialist
Technology Center 3600

MB/MB: 07/23/10

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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	: Shinya Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7646466	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/892,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 27, 2009

TO SPE OF : ART UNIT 2822
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/892380/7554142
Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Zandra V. Smith/ — **SPE**

2822 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,458	08/23/2007	Hideki Etori	ETOR3002D1/GAL	9805

EXAMINER	
DUNWIDDIE, MEGHAN K	

ART UNIT	PAPER NUMBER
2875	

MAIL DATE	DELIVERY MODE
11/10/2008	PAPER

23364 7590 11/10/2008

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314-1176

In re Application of:
Hideki Etori
Serial No.: 11/892,458
Filed: August 23, 2007
Attorney Docket No.: **ETOR3002D1/GAL**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed July 17, 2008. The petition has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held expressly abandoned based on a document filed June 26, 2008. A Notice of Abandonment was mailed on July 08, 2008.

A review of the written record reveals that the document filed June 26, 2008, is not a letter of express abandonment for the above application. It is in fact a response to the Office action mailed February 26, 2008. The response includes a copy of the express abandonment letter filed in application serial number 11/892,337. As such, the instant application was not abandoned.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application will be forwarded to the examiner for consideration of the response.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Janice A. Falcone, 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.
11/892,545	08/23/2007	Tae-Kyoung Kang	P58252	9710

7590 10/22/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
STERN, JACOB R

ART UNIT	PAPER NUMBER
2879	

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.

Patent Publication Branch
Office of Data Management

Repln. Ref: 10/22/2009 NFARMER 00173813[illegible]
DXW:024943 Name/Number:11892545
FC: 9204 $500.00 OP

Adjustment date: 10/22/2009 NFARMER
08/24/2007 SZEUDIE1 00000053 11892545
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,546	08/23/2007	Jung-Suk Song	P58429	9790

7590 11/05/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HADERLEIN, PETER R

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
11/05/2009	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.

Niomi Farmer

Patent Publication Branch
Office of Data Management

[illegible]
[illegible]024943 Name/Number:11541722
[illegible]

Adjustment date: 11/06/2009 NFARMER
08/24/2007 SZEWDIE1 00000052 11892546
02 FC:1111 -300.00 OP

FORM PET651G (Rev. 08/07)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,547	08/23/2007	Joon-Yeon Kim	P58384	9782

7590 10/23/2009

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
10/23/2009	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,572	08/24/2007	Ho-Young Ahn	302/095	1504

7590 11/02/2009

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

EXAMINER	
SANEI, HANA ASMAT	

ART UNIT	PAPER NUMBER
2889	

MAIL DATE	DELIVERY MODE
11/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
11/02/2009 0038076249

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXXX1003

Adjustment date: 11/02/2009 NFARMER
08/27/2007 AWONDAF1 00000172 11892572
02 FC:1111 -500.00 OP

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Tomoki Nakajima	: DECISION ON REQUEST FOR
Patent Number	: 7668473	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/892,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **347** 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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ARENT FOX PLLC
Suite 400
1050 Connecticut Avenue, N.W.
Washington, WA 20036-5339

Mail Date: 04/21/2010

Applicant	: Satoshi Yamaguchi	: DECISION ON REQUEST FOR
Patent Number	: 7599781	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/892,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **214** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,811	08/27/2007	Ian AITCHISON	RYM-2426-14	2019

7590 07/22/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
LEUNG, KA CHUN A	

ART UNIT	PAPER NUMBER
3741	

MAIL DATE	DELIVERY MODE
07/22/2009	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.

Patent Publication Branch
Office of Data Management

Refund Ref:
07/22/2009 0030072511

Credit Card Refund Total: $1080.00

Amex Exp..: XXXXXXXXXXX2021

Adjustment date: 07/22/2009 NFARMER
10/29/2007 DEMMANU1 00000089 11892811
03 FC:1111 -510.00 OP
05 FC:1201 -420.00 OP
06 FC:1202 -150.00 OP

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OFFICE OF PETITIONS

Chien-Hui Su
P. O. Box 70-121 Taichung
Taichung City 40899
TAIWAN

In re Application of	:	
Chang-Ying Chen	:	
Application No. 11/892,821	:	DECISION ON PETITION
Filed: August 28, 2007	:	PURSUANT TO
Attorney Docket No.: GFP-964463	:	37 C.F.R. § 1.137(B)
Title: HAND TOOL WITH A CLUTCH DEVICE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 27, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 3, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on February 4, 2009. A Notice of Abandonment was mailed on February 26, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the issue, publication, and issue fees, along with the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions

---

3 See Rule 1.137(d).
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Kenji Kasahara	: DECISION ON REQUEST FOR
Patent Number	: 7649423	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/892,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **156** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/892,934	08/28/2007	Akinori Hoshino	1000409-000250	3545

7590 08/24/2009

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
DESAI, NAISHADH N	

ART UNIT	PAPER NUMBER
2834	

NOTIFICATION DATE	DELIVERY MODE
08/24/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 08/21/2009 BPOWELL
08/28/2007 CNGUYEN2 00000119 11892934
02 FC:1111 -500.00 OP

Adjustment date: 08/21/2009 BPOWELL
08/28/2007 CNGUYEN2 00000119 11892934
02 FC:1111 -500.00 OP

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Troxell Law Office PLLC
5205 Leesburg Pike, Suite 1404
Falls Church VA 22041

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OCT 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Shyu et al.	:	
Application No. 11/892,950	:	DECISION ON PETITION
Filed: August 28, 2007	:	PURSUANT TO
Attorney Docket No.: BHT-3226-113	:	37 C.F.R. § 1.137(B)
Title: MOLDING GLASS LENS AND MOLD THEREOF	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed September 10, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed September 14, 2007, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 15, 2007. A notice of abandonment was mailed on June 3, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition, filing, search, and examination fees, the surcharge associated with the late submission of the filing, search, and examination fees, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The concurrently submitted Power of Attorney to Prosecute Applications Before the USPTO cannot been entered, as it has been executed by only one of the five joint inventors.[2] Petitioner will note that the concurrently submitted Statement under 37 CFR 3.73(b) cannot be entered, as the field which contains the Reel and Frame numbers (see section 2(A)) has been left blank.

---

1 See Rule 1.137(d).
2 See Rules 1.33(a)(2) and (b)(4).

It is noted that the address listed on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, a properly executed change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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.[3] 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 the delay was intentional, Petitioner must notify the Office.

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.

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.

3 See 37 C.F.R. § 10.18(b); cf. 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).

§ 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Joe McKinney Muncy
P.O. BOX 1364
FAIRFAX VA 22038-1364

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Hiroshi Miyazaki, et al.	:	
Application No. 11/892,977	:	DECISION GRANTING PETITION
Filed: August 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MIYA3027/REF/JDG	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, January 6, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 1, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2855 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/19/2010

Applicant	: Chin-Hung Chang	: DECISION ON REQUEST FOR
Patent Number	: 7619925	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/892,979	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **59** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Gerhard Koelle	: DECISION ON REQUEST FOR
Patent Number	: 7578710	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/893,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAY 24 2010

OFFICE OF PETITIONS

YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of	:	
Mor Naaman, et al.	:	
Application No. 11/893,016	:	DECISION ON PETITION
Filed: August 13, 2007	:	TO WITHDRAW
Attorney Docket No. 324212018800	:	FROM RECORD
	:	

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** because it is moot.

A review of the file record indicates that the power of attorney to Morrison and Foerster 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
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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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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MAY 20 2010

OFFICE OF PETITIONS

In re Application of :
Jackam et al. :
Application No. 11/893,019 :
Filed: August 14, 2007 :
Attorney Docket No. 131655.0103 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 12, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Minh-Quan K. Pham on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is 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

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MCKENNA MCGOVERN BURKHART
134 NORTH LASALLE STREET, SUITE 2040
CHICAGO, IL 60602

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OFFICE OF PETITIONS

In re Application of :
PALMER, Anna :
Application No. 11/893,024 : DECISION ON PETITION
Filed: August 14, 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 September 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement signed by registered attorney of record, Patrick N. Burkhart, attesting to the age of applicant Anna Palmer. 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 (703) 308-9010.

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

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SHARON J. ADAMS
ADAMS LAW OFFICE
2140 SHATTUCK AVE., SUITE 707
BERKELEY CA 94704

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Richard Donovan Short :
Application No. 11/893,044 : DECISION GRANTING PETITION
Filed: August 14, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 07SRT01 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 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 Application Data (ADS) and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers mailed August 31, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy
Petitions Examiner
Office of Petitions

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GARBER MICHAIL
1602 WEST 10 APT. 3H
BROOKLIN NY 11223

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OFFICE OF PETITIONS

In re Application of	:	
Garber MIKHAIL, et al	:	
Application No. 11/893,047	:	DECISION ON PETITION
Filed: August 15, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 29, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Applicant Mikhail Garber's passport. 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 1794 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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JUN 16 2008

OFFICE OF PETITIONS

Jeffrey C. Maynard, Esq.
WHITEFORD TAYLOR & PRESTON, LLP
Seven St. Paul Street
Baltimore MD 21201-1626

In re Application of :
Tilley : DECISION REFUSING STATUS
Application No. 11/893,124 : UNDER 37 CFR 1.47(b)
Filed: August 14, 2007 :
Atty. Dkt. No.: 010564/00068 :

This decision is in response to the petition under 37 CFR 1.47(b) filed March 31, 2008.

The petition under 37 CFR 1.47(b) 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(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 14, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed August 27, 2007. The Notice required a surcharge and an executed oath or declaration.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition fails to satisfy requirements (1), (2), (5), and (6) set forth above.

As to item (1), petitioner has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioner indicates that a copy of the application was mailed to the non-signing inventor and that to date the non-signing inventor has not been responsive to requests to execute the declaration for the instant application. Petitioner further states that additional efforts to reach the non-signing inventor via mail and telephone have not been successful.

The instant petition is not accompanied by any supporting documentation to establish that the non-signing inventor received the application papers.

Petitioner is 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 the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner 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 inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration presented is unacceptable as it has not been properly executed on behalf of the non-signing inventor.

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 (5), petitioner has failed to provide any evidence of a proprietary interest in the instant application. Any renewed petition must be accompanied by evidence to sufficiently establish that (1) that the invention has been assigned to assignee or (2) that the inventor has agreed in writing to assign the invention to assignee or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. *See*, MPEP 409.03(f).

As to item (6), petitioner has 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.

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

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Jeffrey C. Maynard, Esq.
WHITEFORD TAYLOR & PRESTON, LLP
Seven St. Paul Street
Baltimore MD 21201-1626

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of
Tilley
Application No. 11/893,124
Filed: August 14, 2007
Attorney Docket No. 010564/00068

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION
: UNDER 37 CFR 1.47(b)

Papers filed on June 23, 2008 in response to a "Decision Refusing Status Under 37 CFR 1.47(b)," mailed June 16, 2008, included a Declaration signed by a previously non-signing inventor in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(b) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record of this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(b).

This application is being referred to the Office of Patent Application Processing for further processing..

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

FEB 19 2008

In re Application of Dr. Melvin H. Miles Serial No.: 11/893,125 Filed: August 14, 2007 For: CHLORIDE-FREE THERMAL BATTERIES USING MOLTEN NITRATE ELECTROLYTES	: : : : : : :	DECISION ON PETITION UNDER 708.02, VI

This is in response to the petition filed September 19, 2007, requesting that the above identified application be granted Special Status under Section 708.02, VI of the MPEP and 37 CFR 1.102c.

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 to **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Julio DURAN, et al :
Application No. 11/893,141 : DECISION ON PETITION
Filed: August 15, 2007 : TO WITHDRAW
Attorney Docket No. 760-212 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 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 Anna-Lisa Gallo on behalf of the attorneys of record associated with Customer No. 23869.

The attorneys of record associated with Customer No. 23869 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first signing inventor at the address copied below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JULIO DURAN
2467 ROUTE 10, UNIT 18-18,
MORRIS PLAINS, NJ 07950

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Boniard I. Brown
1710 West Cameron Ave., #200
West Covina CA 91790

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OFFICE OF PETITIONS

In re Application of	:	
Lewis Albert	:	
Application No. 11/893,143	:	DECISION ON PETITION
Filed: August 15, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 7510	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 24, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a 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 1791 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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THE R. BACA LAW FIRM, PLLC
P.O. BOX 2638
SAN ANTONIO, TX 78299

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DEC 03 2008

In re Application of :
BERDEGUE, Carlos E. :
Application No. 11/893,148 : DECISION ON PETITION
Filed: August 15, 2007 : TO WITHDRAW
Attorney Docket No. **BED-PT-SA413CIP** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 01, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that a change of address has been submitted by the attorney Rafael Baca on August 01, 2008 with the petition. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CARLOS EDUARDO BERDEGUE**
5150 BROADWAY STREET, #505
SAN ANTONIO TX 78209

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-17-09 Paper No.: _____

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/893,176 Patent No.: 7,574,769

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

Should inventor's name be added?

E. James
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Monica S. Carter
MONICA CARTER
SUPERVISORY PATENT EXAMINER
SPE

3727
Art Unit

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DIW Apr-08

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:
Child, Egami, and Ko	: DECISION ACCORDING STATUS
Application Number: 11/893183	: UNDER 37 CFR 1.47(a)
Filing Date: 08/14/2007	:
Attorney Docket Number:	:
4887.P860	:

This is in response to the petition under 37 CFR 1.47(a) filed on March 31, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Kent Rily Child, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown, via the declaration of Eyerusalem Hailemeskel, that a copy of the application was sent by Federal Express to the last known address of the non-signing inventor. Additionally, several telephone calls were made to the non-signing inventor, but the non-signing inventor failed to sign and return the declaration naming him as a joint inventor along with Glen Egami and Alexander Sou-Kang Ko.

As such, the showing of record is that the non-signing inventor has constructively refused to join in the filing of the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Apr-08

Kent Riley Child
1807 Chapman Court
Los Banos CA 93635

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APR 30 2008

OFFICE OF PETITIONS

In re Application of
Child et al.
Application No. 11/893,183
Filed: August 14, 2007
For: CATCH-CUP TO DIVERTER ALIGNMENT ELEVELING JIG

Dear Mr. Child:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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	: Lilach Hedvati	: DECISION ON REQUEST FOR
Patent Number	: 7619112	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/893,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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J.C. Patents
Suite 250
4 Venture
Irvine CA 92618

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SEP 2 7 2007

OFFICE OF PETITIONS

In re Application of
Hsieh, et al.
Application No.: 11/893,220
Filed: August 14, 2007
Attorney Docket No.: JCLA17441-CIP
For: LIGHT EMITTING DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed August 14, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on August 14, 2007 with a partially executed declaration and a Rule 47 petition. A declaration of facts of Lin Hsui Hsi accompanied the petition. Lin Hsui His explains that non-signing joint inventor Ya-Ju Lee was mailed via registered mail a copy of the above-identified application as filed, including specification, claims, drawings, declaration and power of attorney, and assignment. The registered mail package to Lee was not signed by Mr. Lee and the inventor did not return any relevant documents.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2).

As to item (1), applicants have failed to establish that Mr. Lee has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Petitioners have not demonstrated that all efforts were expended in trying to locate Mr. Lee. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. Mr. Lee did not sign for his registered mail. This fact alone establishes neither diligence in trying to find the non-signing inventor, nor the inventor's refusal by conduct to join in the filing of the application. Mr. Lee may have been on vacation. Another copy of the application should be mailed to his last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioners should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Lee's new address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct.

Other attempts to reach Mr. Lee should be made. If the re-mailed papers are returned, and other attempts to locate the inventor, e.g. through e-mail, computer searches (such as LEXIS), searches of regional or national registries, or telephone searches, fail, then applicants will establish that the inventor cannot be reached. The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d).

If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted.

With respect to (2) above, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. It is noted that each joint inventor's residence and post office address is the same. Given the fact that Mr. Lee no longer works at Epistar Corporation, it is assumed that he does not receive mail there.

MPEP 605.03 states that, "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.... 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...."

The available inventors must execute a new declaration that lists the most recent home address or mailing address (and residence)for Mr. Lee. MPEP 605.03

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Lee is REQUIRED. See MPEP 409.03(a).

Regarding finances, deposit account number 50-0710 will be charged an additional $70.00 because the current Rule 47 petition fee is $200.00, not $130.00 as specified in the petition.

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

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P.O. Box 1450
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J.C. Patents
Suite 250
4 Venture
Irvine CA 92618

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OFFICE OF PETITIONS

In re Application of	:	DECISION NOTING JOINDER OF
Hsieh, et al.	:	PREVIOUSLY NON-SIGNING
Application No.: 11/893,220	:	INVENTOR AND DISMISSING
Filed: August 14, 2007	:	PETITION UNDER 37 CFR 1.47(a)
Attorney Docket No.: JCLA17441-CIP	:	AS MOOT
For: LIGHT EMITTING DEVICE		

Papers filed on November 27, 2007 in reply to a decision refusing status under 37 CFR 1.47(a), mailed on September 27, 2007, included a declaration signed by the previously non-signing joint inventor, Ya-Ju Lee, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is **moot**; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

After the mailing of this decision, the application will be forwarded to Technology Center 2879 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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LAW OFFICE OF TRACY P. JONG
2775 BUFFALO ROAD, SUITE 3
ROCHESTER, NY 14514

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OFFICE OF PETITIONS

In re Application of :
LISSON, Jerold B. :
Application No. 11/893,244 : DECISION ON PETITION
Filed: August 15, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **565-JL** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 birth certificate and statement of inventor Jerold B. Lisson, 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 1-800-PTO-9199.

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

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DEC 26 2007

LAW OFFICE OF TRACY P. JONG
2775 BUFFALO ROAD, SUITE 3
ROCHESTER NY 14624

In re Application of	:
Jerold B. Lisson	:
Serial No.: 11/893,244	: PETITION DECISION
Filed: August 15, 2003	:
Attorney Docket No.: 565-JL	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed November 5, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Denis Saldana :
Application No. 11/893,247 : ON PETITION
Filed: August 15, 2007 :
Attorney Docket No. 15390 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 7, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3679 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Richard W. Goldstein
2071 Clove Road
Staten Island, NY 10304

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SEATTLE, WA 98101

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MAR 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey E. STAHMANN, et al	:	
Application No. 11/893,251	:	DECISION ON PETITION
Filed: August 14, 2007	:	TO WITHDRAW
Attorney Docket No. 115.0117US01/07-017	:	FROM RECORD
	:	

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 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

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DONN K. HARMS
PATENT & TRADEMARK LAW CENTER
SUITE 100
12702 VIA CORTINA
DEL MAR CA 92014

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OFFICE OF PETITIONS

In re Application of	:	
Hiroshi YAMAKITA	:	
Application No. 11/893,264	:	DECISION ON PETITION
Filed: August 15, 2007	:	
Attorney Docket No. 3970-CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 25, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received April 8, 2010.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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PAUL J. COOK
115 PINE STREET
MANCHESTER MA 01944

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JUN 17 2010

OFFICE OF PETITIONS

In re Application of :
George H. Verry :
Application No. 11/893,283 : DECISION ON PETITION
Filed: August 15, 2007 :
Title: Insulator Construction For Pull Down Stairs :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 14, 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 15, 2010. A Notice of Abandonment was mailed May 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 3633 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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Jones Day
222 East 41st Street
New York City NY 10017-6702

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SEP 25 2008

OFFICE OF PETITIONS

In re Application of :
Brines, et al. :
Application No. 11/893,294 : ON PETITION
Filed: August 14, 2007 :
Attorney Docket No. 10165-057-999

This is a decision on the petition under 37 CFR 1.182 filed July 29, 2008, to change the name of a joint inventor cited on this application in USPTO records.

The petition is granted.

The name of the third named joint inventor for the above-cited application is changed to "Carla Cerami Hand."

A corrected filing receipt is enclosed.

The application file is being directed to Technology Center 1600, GAU 1647 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/893,294	08/14/2007	1647	1870	10165-057-999	11	1

CONFIRMATION NO. 4231

CORRECTED FILING RECEIPT

Jones Day
222 East 41st Street
New York City, NY 10017-6702

Date Mailed: 09/25/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Brines, Woodbridge, CT;
Anthony Cerami, Somers, NY;
Carla Cerami Hand, Chapel Hill, NC;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/717,057 11/21/2000 PAT 7,345,019
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: 10/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/893,294**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Modulation of excitable tissue function by peripherally administered erythropoietin

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
David A. SHAFER, et al :
Application No. 11/893,323 : DECISION ON PETITION
Filed: August 15, 2007 : TO WITHDRAW
Attorney Docket No. 24749-0006001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 11, 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 Tina Williams McKeon 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.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: TINA WILLIAMS MCKEON
1180 PEACHTREET ST, NE; 21ST FLOOR
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF ROBERT M. WALLACE
2112 EASTMAN AVENUE, SUITE 102
VENTURA CA 93003

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of
Pipitone et al.
Application No. 11/893,353
Filed: August 15, 2007

Attorney Docket No. 012039 USA/CPI/L/B/AG
Title of Invention: APPARATUS FOR WAFER LEVEL ARC DETECTION AT AN RF BIAS IMPEDANCE MATCH TO THE PEDESTAL ELECTRODE

ON PETITION

This is a decision on the petition, filed June 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition filed under 37 CFR 1.181 is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a complete response to the Notice to File Missing Parts which was mailed on October 9, 2007. The Notice set an extendable two (2) month period for reply. An incomplete reply was submitted on October 19, 2007. A Notice of Incomplete Reply was mailed on October 31, 2007, informing applicant that a complete reply had not been submitted. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 10, 2007. A Notice of Abandonment was mailed on June 12, 2008.

Petitioner maintains that a the Notice was made in error because a complete reply to the Notice to File Missing Parts was submitted on October 19, 2007.

A review of the record shows that petitioner failed to reply to the Notice of Incomplete Reply. The Notice clearly stated failure to reply would result in the abandonment of the application. Since a reply was not filed in reply to the Notice of Incomplete Reply, the application was properly held abandoned. The time to make an argument that a complete reply was submitted was in response to the October 31, 2007 Notice. It should further be noted that the mere submission of the omitted figures was not a sufficient reply to the omitted figures section of the Notice to File Missing Parts. The Notice to File Missing Parts and the Notice of Incomplete Reply informed applicant what was required if applicant desired to accept the application as deposited under section III.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICE OF ROBERT M. WALLACE
2112 EASTMAN AVENUE, SUITE 102
VENTURA CA 93003

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DEC 15 2008

In re Application of :
Pepitone et al. :
Application No.11/893,353 : ON PETITION
Filed: August 15, 2007 :
Attorney Docket: 012039USA/CPI/L/B/AG :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to file a complete response to a Notice to File Missing Parts of Nonprovisional Application, which was mailed on October 9, 2007. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). A Notice of Incomplete Reply was mailed on October 31, 2007. Accordingly, this application became abandoned on December 10, 2007. A Notice of Abandonment was mailed on June 12, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

As to item (1) petitioner has failed to submit a complete reply to the Notice to File Missing Parts. The Notice required petitioner to indicate the manner in which the omitted figures 1B, 5B and 6B should be treated. The submission of the omitted figures alone is not a complete reply to the Notice. On renewed petition, petitioner should review the Notice and indicate which option (I, II, or III) applicant wishes to make. To the extent petitioner wishes to accept option III, petitioner

must submit the documents referenced in III (a) or (B) as indicated in the Notice. If petitioner wishes a later filing date (option II), a clear statement should be made.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LAW OFFICE OF ROBERT M. WALLACE
2112 EASTMAN AVENUE, SUITE 102
VENTURA CA 93003

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Pipitone et al.
Application No 11/893,353
Filed: August 15, 2007
Attorney Dkt. No: 012039USA/CPI/L/B/AG
For: Apparatus For Wafer Level ARC Detection At An RF Bias Impedance Match To The Pedestal Electrode

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a complete response to a Notice to File Missing Parts of Nonprovisional Application, which was mailed on October 9, 2007. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). A Notice of Incomplete Reply was mailed on October 31, 2007. Accordingly, this application became abandoned on December 10, 2007. A Notice of Abandonment was mailed on June 12, 2008. Petitions under 37 CFR 1.137(b) were dismissed on July 21, 2008 and December 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of drawings and specification (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

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SEP 15 2008

In re Application of :
Pipitone et al. :
Application No.: 11/893390 : DECISION ON
Filing or 371(c) Date: 08/15/2007 : PETITION
Attorney Docket Number: :
012039 USA 03/CPI/L/B/AG :

This is a decision in response to the petition under 37 CFR § 1.181, filed July 28, 2008, to withdraw the holding of abandonment.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Omited Item(s) in a Nonprovisional Application ("Notice"), mailed November 8, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Notice having been received, the application became abandoned on January 9, 2008. A Notice of Abandonment was mailed July 10, 2008.

The present petition

Applicant filed a petition to withdraw the holding of abandonment and in support of the petition states that the Notice was mailed in error because drawing Figures 1b, 5b and 6b were filed on October 19, 2007 (Certificate of Mailing dated October 17, 2007).

Applicant admits that the failure to respond to the Notice was inadvertent; however, Applicant contends that because the requirement in the Notice was issued in error, the Notice should be rescinded, and upon rescission of the Notice, the Abandonment should also be withdrawn.

Alternatively, Applicant requests that the drawings filed October 19, 2007 be treated as a complete, albeit anticipatory, response to the Notice.

The Notice

A review of the Notice reveals that the Notice provided Applicant with three (3) options: 1) Petition for date of deposit; 2) Petition for later filing date, or 3) Accept the application as deposited.

Here, Applicant received a Notice, mailed August 29, 2007, in error and responded by submitted the additional drawing Figures without 1) petitioning for the date of deposit; 2) Petitioning for a later filing date, or 3) Accepting the application as deposited. Applicant did not have the option of submitting the drawings and maintaining the filing date of the application absent a petition for the date of deposit and evidence that the omitted drawings were in fact deposited with this Office on August 15, 2007.

The Notice that was mailed in error was withdrawn and a new Notice with a new reply period was mailed November 8, 2008. The new Notice (which correctly indicated the filing date of the application as August 15, 2007, and not the date that the replacement drawings were filed, October 19, 2007), also provided Applicant with the same three options: 1) Petition for date of deposit; 2) Petition for later filing date, or 3) Accept the application as deposited.

Applicant did not reply to the new Notice.

Applicable Law, Rules and MPEP

The applicable statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the failure to reply to an Office communication will result in the abandonment of the application.

Here, Applicant did not file a reply to the Notice. The Manual of Patent Examining Procedure states:

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., **the applicant's contentions merely involve the cause of abandonment**), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. (Emphasis supplied).

MPEP 711.03(c).

Conclusion

Here, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action. Any petition to revive the application must be accompanied by the required reply, the options for which are set forth in the Notice. If Applicant accepts the application as deposited, Applicant has the option to file a preliminary amendment prior to the first Office action on the merits, to add the drawing figures on the basis that the figures are not new matter. Issues of new matter are appropriately addressed by the examiner.

Alternate Venue

Applicant is urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not

appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents 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/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF ROBERT M. WALLACE
2112 EASTMAN AVENUE, SUITE 102
VENTURA CA 93003

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OFFICE OF PETITIONS

In re Application of	:	
Pipitone et al.	:	
Application No.: 11/893390	:	DECISION ON
Filing or 371(c) Date: 08/15/2007	:	PETITION
Attorney Docket Number:	:	
012039 USA 03/CPI/L/B/AG	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed September 15, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Omited Item(s) in a Nonprovisional Application ("Notice"), mailed November 8, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply to the Notice having been received, the application became abandoned on January 9, 2008. A Notice of Abandonment was mailed July 10, 2008.

Applicant files the present petition, and a response to the Notice was filed on July 28, 2008. 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 filed on July 28, 2008, 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

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29 NOV 2007

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

In re Application of:
SHUTTLEWORTH, Stephen, J., et al.
U.S. Application No.: 11/893,414
Filing Date: August 16, 2007
Dkt No.: 01100.002US2
For: PHARMACEUTICAL COMPOUNDS

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is issued in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed August 16, 2007. Applicants have paid the required petition fee.

BACKGROUND

On 25 October 2005, applicants filed international application PCT/GB2005/004129. The application claimed a priority date of 25 October 2004, and it designated the United States. On 04 May 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., 25 April 2007.

On 24 April 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States. These materials were assigned U.S. application number 11/666,192; however, the submission did not include payment of the basic national fee. Accordingly, international application PCT/GB2005/004129 became abandoned with respect to the United States for failure to timely submit the basic national fee (see 35 U.S.C. 371(d); 37 CFR 1.495(h)).

On August 16, 2007, applicants filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/GB2005/004129, accompanied by the Petition For Revival considered herein.

DISCUSSION

The Petition For Revival 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," satisfying the requirement of 37 CFR 1.137(b)(3).

The filing of the present continuation application under 35 U.S.C. 111(a) is accepted as the "required reply" under 37 CFR 1.137(b) (see MPEP section 711.03(c)(II)(A)), and the

requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the international application as to the United States is appropriately granted.

International application PCT/GB2005/004129 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/893,414.

CONCLUSION

The petition for revival under 37 CFR 1.137(b) is **GRANTED**.

International application PCT/GB2005/004129 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/893,414.

This application is being referred to the Office of Initial Patent Examination (OIPE) for further processing in accordance with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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THE DOW CHEMICAL COMPANY / DOBRUSIN & THENNISCH PC
29 LAWRENCE STREET, STE. 210
PONTIAC, MI 48342

Mail Date: 04/21/2010

Applicant	: Jeroen Van Poucke	: DECISION ON REQUEST FOR
Patent Number	: 7632888	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/893,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **66** 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.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CST

10-2-07

In re application of	:	
Wilmot H. McCutchen	:	
Serial No. 11/893,454	:	DECISION ON PETITION
Filed: August 16, 2007	:	TO MAKE SPECIAL
For: RADIAL COUNTERFLOW	:	
INDUCTIVE DESALINATION	:	

This is a decision on the petition filed on August 16, 2007 to make the above-identified application special because of enhancement of environmental quality.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection V (environmental quality) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) on or after August 25, 2006;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web. Furthermore, the application contains greater than twenty total claims (21 claims).

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

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JUN 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Blaustein, et al.	:	
Application No. 11/893,469	:	ON PETITION
Filed: August 16, 2007	:	
Attorney Docket No. 8880RCC	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 13, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 14, 2008. This Office action set a shortened statutory period for reply of three months. No proper reply having been received, the application became abandoned on January 15, 2009. The Office mailed a Notice of Abandonment on May 11, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3727 for consideration of the RCE, filed May 13, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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.
11/893,560	08/15/2007	Yu-Chung Liu	SII054	5902

7590 02/17/2010

Intellectual Property Law Office of David Lathrop
No. 827
39120 Argonaut Way
Fremont, CA 94538

EXAMINER	
HENN, TIMOTHY J	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
02/17/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/18/2010 NFARMER
08/20/2007 SSITHIB1 00000020 07/0137 11893560
02 FC:1111 -300.00 CR

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ZUBER & TAILLIEU LLP
10866 WILSHIRE BLVD.
SUITE 300
LOS ANGELES CA 90024

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Jamie Orozco	:	
Application No. 11/893,566	:	DECISION ON PETITION
Filed: August 15, 2007	:	TO WITHDRAW
Attorney Docket No. 0851-1002	:	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 January 6, 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 practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JAIME OROZCO
8028 4TH STREET
DOWNEY, CA 90241

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ZUBER & TAILLIEU, LLP
10866 WILSHIRE BLVD.
SUITE 300
LOS ANGELES, CA 90024

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APR 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Jamie Orozco	:	
Application No. 11/893,566	:	DECISION ON PETITION
Filed: August 15, 2007	:	TO WITHDRAW
Attorney Docket No. 0851-1002	:	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 3, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioner was not appointed by customer number. In order to withdraw by customer number, practitioner must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JAIME OROZCO
8028 4TH STREET
DOWNEY, CA 90241

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JUN 08 2009

OFFICE OF PETITIONS

ZUBER & TAILLIEU, LLP
10866 WILSHIRE BLVD.
SUITE 300
LOS ANGELES, CA 90024

In re Application of :
Jamie Orozco :
Application No. 11/893,566 : DECISION ON PETITION
Filed: August 15, 2007 : TO WITHDRAW
Attorney Docket No. 0851-1002 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 20, 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 practitioner was not appointed by customer number. In order to withdraw by customer number, practitioner must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. 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: JAIME OROZCO
8028 4TH STREET
DOWNEY, CA 90241

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZUBER & TAILLIEU LLP
10866 WILSHIRE BLVD., SUITE 300
LOS ANGELES, CA 90024

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Jamie Orozco	:	
Application No. 11/893,566	:	DECISION ON PETITION
Filed: August 15, 2007	:	TO WITHDRAW
Attorney Docket No. 0851-1002	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 25, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Spyros J. Lazaris on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely reply to the outstanding Office action mailed September 19, 2008.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMIE OROZCO
8028 4TH STREET
DOWNEY, CA 90241

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/893,566	08/15/2007	Jaime Orozco	0851-1002

CONFIRMATION NO. 5266

ZUBER & TAILLIEU LLP
10866 WILSHIRE BLVD., SUITE 300
LOS ANGELES, CA 90024

POWER OF ATTORNEY NOTICE

OC000000036992201

Date Mailed: 07/20/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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LAW OFFICE OF JAY R. HAMILTON, PLC.
331 W. 3RD ST.
NEW VENTURES CENTER SUITE 120
DAVENPORT IA 52801

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
David C. Orlowski et al.	:	
Application No. 11/893,567	:	DECISION ON PETITION
Filed: August 16, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. USPA-0225	:	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 statement by one of the applicants, David Orlowski, that he is older than 65 years. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3745 for action commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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DR. RICHARD G. WOOD
THE MATTHEWS FIRM
2000 BERING DRIVE, SUITE 700
HOUSTON TX 77057

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Richard Glee Wood et al. :
Application No. 11/893,583 :
Filed: August 16, 2007 :
Attorney Docket No. Wood-001:CIP-2 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 copy of the applicant, Richard Glee Wood, proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2131 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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APR 28 2009

OFFICE OF PETITIONS

In re Application of
Raymond J. Blasko et al
Application No. 11/893,591
Filed: August 16, 2007
Attorney Docket No. DP-315660

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2007 and supplemented on April 27, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
BAKEY, Shaun :
Application No. 11/893,610 : DECISION ON PETITION
Filed: August 15, 2007 : TO WITHDRAW
Attorney Docket No. **021756-077910US** : FROM RECORD
:

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 09, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Hickaman Palermo Truoung & Becker LLP has been revoked by the assignee of the patent application on February 23, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **TOWNSEND AND TOWNSEND AND CREW LLP**
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

2 1 APR 2008

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Robert J. Harris
VISKINS HARRIS & PADYS PLLP
P. O. Box 111098
St. Paul, MN 55111-1098

In re Application of:	:	
SHUTTLEWORTH et al.	:	DECISION ON
US Application No.: 11/893,625	:	
Filing Date: August 16, 2007	:	PETITION UNDER
Applicant's docket No.: 01100.001US2	:	
For: PHARMACEUTICAL COMPOUNDS	:	37 CFR 1.137(b)

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.137(b)" filed on 09 October 2007. The petition fee required under 37 CFR 1.17(m) has been paid.

BACKGROUND

On 25 October 2005, applicants filed international application PCT/GB2005/004146 which claimed priority of an earlier application filed on 25 October 2004. The thirty-month period for paying the Basic National fee in the United States expired at midnight on 25 April 2007.

On 24 April 2007, applicants filed, *inter alia*, a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371, an Application Data Sheet, and a preliminary amendment. The Basic National Fee of $300.00 was not included in this filing. Thus PCT/GB2005/004146 as to the United States went abandoned under 35 U.S.C. 371(d) after midnight on 25 April 2007. These papers were assigned U.S. application No. 11/666,152.

On 16 August 2007 applicants filed a petition to revive international application PCT/GB05/04146 under 37 CFR 1.137(b).

This petition was dismissed by a decision dated 28 September 2007.

On 09 October 2007 applicant filed the instant renewed 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."

The petition filed on 16 August 2007 satisfied requirements (2), (3) and (4) but did not satisfy requirement (1).

The 16 August 2007 petition indicated that the requirement (1) reply was a "Continuation under 35 U.S.C. 111(a)" which was "filed concurrently." However, no such continuing application was present in the application file for 11/666,152. Thus the 16 August 2007 petition was dismissed because it did satisfy requirement (1).

In the Renewed Petition of 09 October 2007 applicants have provided a copy of documents alleged to have been filed with the 16 August 2007 petition including a copy of the missing "Continuation under 35 U.S.C. 111(a)" which was "filed concurrently."

These documents included a 69 page specification, 10 pages of claims (claims 1 – 13) and a page containing an Abstract. The documents also included a photocopy of a return postcard, a two page "REQUEST FOR FILING A CONTINUING APPLICATION OF AN INTERNATIONAL APPLICATION (Form PTO/SB/13/PCT), a five page Application Data Sheet, and a copy of an Express Mail mailing label.

Applicants allege that these documents were filed with the 16 August 2007 petition but were separated from said petition, treated as a new application and given the serial number 11/893,625 (hereinafter the '625 application). An examination of the '625 application indicates that this is, apparently, exactly what happened.

There are four documents in the '625 application filed on 16 August 2007: a transmittal letter; a specification; a set of claims and an Application Data Sheet. The transmittal letter is identical to the form PTO/SB13/PCT included in the above-mentioned documents filed with the instant petition. In like manner, the specification, claims and Application Data Sheet in the '625 file are identical to those provided in the instant renewed petition. The copy of the return postcard included in the instant renewed petition indicates that the above-mentioned four documents along with a two page

"Petition for Revival of An International Application" were received in the USPTO on 16 August 2007.

Clearly, the above-mentioned requirement (1) reply was included in the original petition to revive international application PCT/GB05/04146 filed on 16 August 2007. However, the papers were separated and the "Petition for Revival of An International Application" was placed in application serial No. 11/666,152 while the continuing application was filed as application serial No. 11/893,625.

It is noted that application serial No. 11/893,625 has been treated as a continuation of PCT/GB2005/004146 and granted a filing date of 16 August 2007. It is also noted that a NOTICE TO FILE MISSING PARTS OF A NONPROVISIONAL APPLICATION was mailed to applicants on 11 October 2007. This notice required an executed oath or declaration and the applicable surcharge.

DECISION

For the reasons discussed above, the applicants request to revive PCT/GB2005/004146 is **GRANTED**.

International application PCT/GB2005/004146 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the continuing application 11/893,625.

National stage application serial No. 11/666,152 remains abandoned for failure to pay the basic national fee.

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 this letter marked to the attention of the PCT Legal Office.

Leonard Smith
Supervisory PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (571) 272-3278

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 13 2009

OFFICE OF PETITIONS

GARY ALAN BROWN
4005 SANTA ANITA PL.
KELOWNA BC V1W-2Z6 CA CANADA

In re Application of :
Gary Alan Brown :
Application No. 11/893,629 : ON PETITION
Filed: August 16, 2007 :
Attorney Docket No.

This is a decision on the petition to withdraw the holding of abandonment filed June 8, 2009.

The petition is **DISMISSED**.

The above-identified application became abandoned on November 8, 2008, for failure to file timely and proper response to the Notice to File Missing Parts of Non-Provisional Application mailed September 7, 2007. The notice set a shortened period for reply of two-months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). Notices of Incomplete Reply were mailed on October 10, 2007, and November 1, 2007, advising applicant that the responses filed September 28, 2007, and October 22, 2007, were incomplete. The period for reply remained as set forth in the Notice to File Missing Parts of Non-Provisional Application. A Notice of Abandonment was mailed on November 18, 2008. On March 10, 2008, petitioner paid what is believed to be the outstanding amount due for the examination fee and independent claim fees, however, this response was not accompanied by the extension of time within the fifth month that would have been required in order for the response to be considered timely.

A petition to withdraw the holding of abandonment is only proper when there is some question as to whether the application is actually abandoned. The petition to withdraw the holding of abandonment is normally filed when applicant had either not received the Office action in question or has filed a timely response to an Office action that the USPTO indicates was not received. In this case, the record demonstrates that the Notice to File Missing Parts of Non-Provisional Application was received as were both Notices of Incomplete Reply. Yet, petitioner did not file a proper and complete reply until after the expiration of the shortened period for reply and the reply was not accompanied by the necessary extension of time. There is no dispute as to whether the application was properly abandoned and, as such, the petition to withdraw the holding of abandonment is improper. The petition to withdraw the holding of abandonment is dismissed, accordingly.

Where applicant has allowed the application to go abandoned due to an inadvertent error such as is the case here, the appropriate petition is filed under 37 CFR 1.137(b) for unintentional delay in responding to an Office action. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by a proper response to the final Office action, the required petition fee ($1620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The fees required by the September 7, 2007, notice are noted and made of record. Accordingly, the response required to be filed with the petition under 37 CFR 1.137(b) is already of record and not required to be filed with the petition.

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 regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARY ALAN BROWN
4005 SANTA ANITA PL.
KELOWNA BC V1W-2Z6 CA CANADA

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AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary Alan Brown	:	
Application No. 11/893,629	:	ON PETITION
Filed: August 16, 2007	:	
Attorney Docket No. None	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a complete reply to the Notice to File Missing Parts of Nonprovisional Application, mailed September 7, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 8, 2007. A Notice of Abandonment was mailed November 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee, search fee, examination fee, additional claim fee and surcharge of $65, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (271) 272-4000

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER CO 80301

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FEB 16 2010

OFFICE OF PETITIONS

In re Application of
Mahesh K. Varanasi et al.
Application No. 11/893,636
Filed: August 17, 2007
Attorney Docket No. **470992**

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 December 18, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER CO 80301

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of :
Mahesh K. Varanasi et al. :
Application No. 11/893,636 : DECISION ON PETITION
Filed: August 17, 2007 : TO WITHDRAW
Attorney Docket No. **470992** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 22, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Curtis A. Vock on behalf of all attorneys of record who are associated with Customer Number 30955.

All attorneys/agents associated with Customer Number 30955 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 The Regents of The University of Colorado at the address list listed in the request.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: The Regents of The University of Colorado
1800 Grant Street, 8th Floor
Denver, CO 80203

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Kathrin Berkner	: DECISION ON REQUEST FOR
Patent Number	: 7616815	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/893,646	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE WA 98101

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
GOSCHA, Donald L. :
Application No. 11/893,704 : DECISION ON PETITION
Filed: August 17, 2007 : TO WITHDRAW
Attorney Docket No. **020.0704.US.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 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.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DONALD L. GOSCHA**
13280 196TH AVE, ELK RIVER
RIVER MN 55330

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
PLAZA VII- SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/893,725	08/16/2007	Peter Stemer	20050029-02	6220

7590 12/04/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
ZALASKY, KATHERINE M	
ART UNIT	**PAPER NUMBER**
1797	
NOTIFICATION DATE	**DELIVERY MODE**
12/04/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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.
11/893,736	08/17/2007	Gary P. Fugitt	R20415-1 CIP	6069

EXAMINER

7590 02/27/2008

MEADWESTVACO CORPORATION
1021 MAIN CAMPUS DRIVE
CENTENNIAL CAMPUS
RALEIGH, NC 27606

ART UNIT	PAPER NUMBER
1731	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

L. Fletcher

Patent Publication Branch
Office of Data Management

Adjustment date: 02/29/2008 KKING1
08/21/2007 HMARZI1 00000029 231160 11893736
02 FC:1111 500.00 CR
04 FC:1201 1000.00 CR
05 FC:1202 3000.00 CR

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 0 8 2008

OFFICE OF PETITIONS

In re Application of :
MCCOY, Steve et al. :
Application No. 11/893,776 : DECISION ON PETITION
Filed: August 17, 2007 : TO WITHDRAW
Attorney Docket No. **12583.0038US01** : FROM RECORD
:

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 28, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Brian H. Batzli on behalf of all attorneys of record who are associated with customer No. 23552. 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: **STEVE MCCOY**
19168 POPLAR CIRCLE
EDEN PRAIRIE, MINNESOTA 55347

cc: **WAVECREST CORPORATION**
7610 EXECUTIVE DRIVE
EDEN PRAIRIE, MINNEAPOLIS 55344

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MAY 24 2010

OFFICE OF PETITIONS

YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of	:	
Tomi J. Blinnikka, et al.	:	
Application No. 11/893,836	:	DECISION ON PETITION
Filed: August 16, 2007	:	TO WITHDRAW
Attorney Docket No. 324212018900	:	FROM RECORD
	:	

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** because it is moot.

A review of the file record indicates that the power of attorney to Morrison and Foerster 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 Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **YAHOO! INC.**
C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUL 17 2008

In re Application of	:	
Jeffrey Grayzel, et al.	:	
Application No. 11/893,852	:	DECISION ON PETITION
Filed: August 18, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 129338/00106	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 18, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from one of the applicant's 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 3731 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUL 17 2008

In re Application of	:	
Jeffrey Grayzel, et al.	:	
Application No. 11/893,853	:	DECISION ON PETITION
Filed: August 18, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 129338/00107	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 18, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from one of the applicant's 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 3731 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES,LLC
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Application of
Robyn J. Farrington
Application No. 11/893,859
Filed: August 17, 2007
Attorney Docket No. 0342-2 CIP

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 23, 2009 and supplemented on April 13, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Ernest D. Buff has been revoked by the applicant of the patent application on April 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

KENNETH WATOV, ESQ.
WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION NJ 08550

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/893,859	08/17/2007	Robyn J. Farrington	0342-2 CIP

CONFIRMATION NO. 5506

POWER OF ATTORNEY NOTICE

25901
ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

Date Mailed: 06/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2009.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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KENNETH WATOV
WATOV & KIPNES, P.C.,
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of

Robyn J. Farrington
Application No. 11/893,859
Filed: August 17, 2007
Attorney Docket No. 0342-2 CIP

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 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Kenneth Watov.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Robyn J. Farrington 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:
ROBYN J. FARRINGTON
P.O. BOX 2
WESTFIELD NJ 07091

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/893,859	08/17/2007	Robyn J. Farrington	0342-2 CIP

CONFIRMATION NO. 5506

KENNETH WATOV, ESQ.
WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

POWER OF ATTORNEY NOTICE

Date Mailed: 06/25/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/22/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

DATE 10-11-07 APPLICATION NUMBER 11/893,872

DOC CODE PET DEC DOC DATE 10-12-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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CST

10-12-07

In re application of :
Boris M. Khudenko et al :
Serial No. 11/893,872 : DECISION ON PETITION
Filed: August 18, 2007 : TO MAKE SPECIAL
For: METHOD FOR WATER FILTRATION :

This is a decision on the petition filed on August 18, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS); and the application contains greater than 20 total claims (there are 35 claims).

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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DAN M. DELA ROSA, ESQ.
SUITE 24C
300 E 77TH STREET
NEW YORK, NY 10021

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OCT 2 9 2009

OFFICE OF PETITIONS

In re Application of :
Prasad et al. :
Application No. 11/893,894 : ON PETITION
Filed: August 20, 2007 :
Attorney Docket No. P-0123US :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 8, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant's attorney that he is 65 years of age, and a Declaration from 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 the undersigned at 571-272-6059. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
MIKHAIL LAKHMAN :
Application No. 11/893,896 : DECISION ON PETITION
Filed: August 20, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. MEDCI.034C1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), August 20, 2007 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of Mikhail Lakhaman's, driver's license attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

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PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Joseph A. Durben	: DECISION ON REQUEST FOR
Patent Number	: 7581372	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/893,901	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/17/2007	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/893,904	08/17/2007	Yusuke Nanjo	450100-04527.1	6886

7590 09/03/2009

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER	
FOSSELMAN, JOEL W	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
09/03/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
09/08/2009 NFARMER 0000168720

CHECK Refund Total: $500.00

Adjustment date: 09/08/2009 NFARMER
08/21/2007 HMARZI1 00000071 11893904
02 FC:1111 -500.00 OP

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AFS / ANGIODYNAMICS
666 THIRD AVENUE
FLOOR 10
NEW YORK NY 10017

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In re Application of :
Morris et al. :
Application No. 11/893,911 : DECISION ON PETITION
Filed: 08/17/2007 :
Attorney Docket No. R-001.US02/309795 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

On September 11, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to reply. Petitioners obtained an extension of time for response within the fourth month. However, in the absence of a timely and complete reply to the Notice to File Missing Parts of Nonprovisional Application, the application became abandoned on March 12, 2008. A Notice of Abandonment was mailed on July 1, 2008.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply on June 12, 2008, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted**.

This matter is being referred to the Office of Patent Application Processing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Office of Patent Application Processing.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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SEP 0 4 2007

OFFICE OF PETITIONS

JOE W. TUCKER
702 TRIMMIER ROAD, APT 4
KILLEEN, TX 76541

In re Application of :

TUCKER, Joe W. :
Application No. 11/893,924 : DECISION ON PETITION
Filed: August 20, 2007 : 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 August 20, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of inventor Joe W. Tucker's driver's license, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

TY UNG
16830 VENTURA BLVD
SUITE 360
ENCINO CA 91436

In re Application of :
Sam Samaha :
Application No. 11/893,930 : DECISION GRANTING PETITION
Filed: August 17, 2007 :
Attorney Docket No. 22636-002

This is a decision on the "PETITION FOR FILING DATE", filed November 13, 2007, to accord the above-identified application a filing date of August 17, 2007.

The application was deposited on August 17, 2007. However, on September 11, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings. In response, applicant timely filed this petition. Applicant requests that the application be accorded a filing date because the omitted drawings are not necessary under 35 USC 113 (first sentence).

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method

claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

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 instant application contains method claims.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g). The Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in § 601.01(g), applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing[s] was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

Please note that no petition is required and that the amendment must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

To the extent the instant petition requests a filing date of August 17, 2007, with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded under separate cover.

Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to August 17, 2007**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing**, and
- **for issuance of a filing receipt**.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TY UNG
16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

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OFFICE OF PETITIONS

In re Application of :
SAMAHA, Sam :
Application No. 11/893,930 : DECISION ON PETITION
Filed: August 17, 2007 : TO WITHDRAW
Attorney Docket No. **22636** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Ty Ung has been revoked by the applicant of the patent application on May 15, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **EDWIN TARVER**
16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Patricia Lee Christon, et al.	:	
Application No. 11/894,077	:	DECISION GRANTING PETITION
Filed: August 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8819CDC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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HONIGMAN MILLER SCHWARTZ & COHN LLP
444 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007-3714

Applicant: Davies et al.
Appl. No.: 11/894,092
Filing Date: August 20, 2007
Title: MODULATORS OF MUSCARINIC RECEPTORS
Attorney Docket No.: 06124/223306/120608
Pub. No.: 2007/0113958 A1
Pub. Date: May 15, 2008

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OFFICE OF PETITIONS

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on June 9, 2008 for the above-identified application, due to a misprint in the claims.

The request does not appear to be signed in accordance with 37 CFR 1.4. The request is signed but it is not clear who signed the request for the corrected publication. Applicant is give a time period of 1 month or thirty (30) days from the mailing date of the notice which ever is longer within which to correct the omission by providing either a duplicate paper or ratification which clearly sets forth who is signing the request.

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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HONIGMAN MILLER SCHWARTZ & COHN
LLP/VPI
444 WEST MICHIGAN AVENUE
KALAMAZOO, MI 49007-3714

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NOV 23 2009

OFFICE OF PETITIONS

Applicants: Robert J. Davies, et al.
Appl. No.: 11/894,092
Filing Date: August 20, 2007
Title: MODULATORS OF MUSCARINIC RECEPTORS
Attorney Docket: 223306/06-124 US/120608
Pub. No.: US 2008/0113958 A1
Pub. Date: May 15, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 25, 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.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark 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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JONATHAN P. O"BRIEN, PH.D.
HONIGMAN MILLER SCHWARTZ & COHN LLP
350 EAST MICHIGAN AVENUE
SUITE 300
KALAMAZOO MI 49007

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JUL 26 2010

OFFICE OF PETITIONS

In re Application :
Robert J. Davies et al. :
Application No. 11/894,092 : DECISION ON APPLICATION
Filed: August 20, 2007 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **223306/06-I 24** :
US/120608

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(b) filed June 29, 2010. Applicant requests that the determination of patent term adjustment be corrected from 265 to 311 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

---

[2] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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ROMAIN L. BILLIET
26 LORONG SUSU
PENANG, MALAYSIA 6042291234

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SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of :
BILLIET, et al. :
Application No. 11/894,095 : DECISION ON PETITION
Filed: August 21, 2007 : 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 August 21, 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 inventor Romain L. Billiet's passport, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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FOLEY HOAG, LLP
PATENT GROUP (w/ISA)
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

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JUL 2 1 2008

In re Application of :
Tsung et al. :
Application No. 11/894,108 :
Filed: August 20, 2007 :
Attorney Docket No. 32209-734.302 :
For: Rapid Sample Collection and :
Analysis Device and Methods :
of Use :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed April 7, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

With respect to item (4) above, the last known address of the non-signing inventor is unclear.

Per the Application Data Sheet filed August 20, 2007, the non-signing inventor's address is:

398 Tianmushan Road
Hangzhou 310023
PEOPLE'S REP OF CHINA

Per the petition filed April 7, 2008, the non-signing inventor's address is:

Room 202, #4 Building, Beijing Yuan
Xihu District, Hangzhou
Zhejiang 310021
PEOPLE'S REP OF CHINA

Per paragraph 11 of the declaration filed in support of petition, the non-signing inventor's address is:

8-4-202, YiJing Yuan
Xihu District, Hangzhou
Zhejiang 310000
PEOPLE'S REP OF CHINA

Petitioner should file a request for reconsideration clarifying the last known address of the non-singing inventor.

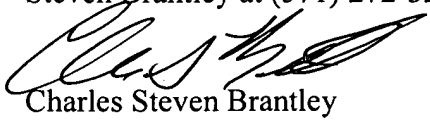
The change of correspondence address filed March 14, 2008, cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Unless filed by EFS Web, any further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Karen K. Wong
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, CA 94304

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Inverness Medical Innovations / WSGR
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, CA 94304

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of :
Tsung et al. :
Application No. 11/894,108 :
Filed: August 20, 2007 :
Attorney Docket No. 32209-734.302 :
For: Rapid Sample Collection and :
Analysis Device and Methods :
of Use :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed September 22, 2008.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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VEDDER PRICE, P.C.
222 N. LASALLE STREET
CHICAGO, IL 60601

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
John Whalen, et. al.
Application No. 11/894,118
Filed: August 20, 2007
Attorney Docket No. 27343.00.0091

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed February 9, 2010.

The request is **APPROVED**.

The request was signed by Michael J. Turgeon on behalf of himself and all attorneys/agents associated with Customer Number 23418. Therefore, Michael J. Turgeon and all the attorneys/agents associated with Customer Number 23418 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an outstanding Office action mailed November 17, 2009 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the above address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of :
Toshiharu Enmei :
Application No. 11/894,128 : NOTICE
Filed: August 20, 2007 :
Atty Docket No.: A849.312-0004 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

There is no indication that the person signing the instant communication was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature of Stephen M. Komarec appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Focht et al.	:	
Application No. 11/894,143	:	DECISION ON PETITION
Filed: August 20, 2007	:	PURSUANT TO
Attorney Docket No.: 9081MC4	:	37 C.F.R. § 1.137(B)
Title: STRIPED LIQUID	:	
PERSONAL CLEANSING	:	
COMPOSITIONS CONTAINING A	:	
CLEANSING PHASE AND A	:	
SEPARATE BENEFIT PHASE WITH	:	
IMPROVED STABILITY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed July 22, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication, mailed January 14, 2009, which set a shortened statutory period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 15, 2009. A notice of abandonment was mailed on May 21, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on July 22, 2009 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Nicholas William Geary	: DECISION ON REQUEST FOR
Patent Number	: 7585827	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/894,144	: 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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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/894,149	08/20/2007	Toshiya Murai	68982 (71719)	8716

7590 07/02/2009

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

EXAMINER	
BEAUSOLIEL JR, ROBERT W	

ART UNIT	PAPER NUMBER
2113	

MAIL DATE	DELIVERY MODE
07/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 07/02/2009 NFARMER
08/22/2007 ATRINH 00000019 041105 11894149
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: David C. Racenet	: DECISION ON REQUEST FOR
Patent Number	: 7597230	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/894,195	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

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AUG 18 2008

In re Application of :
Anderson et al. :
Application No. 11/894,208 :
Filed: August 20, 2007 :
Attorney Docket No. 34186/1009 :

Notification Verifying
Application Has Been Accorded
Status Under 37 CFR 1.47

This is in response to the papers filed May 27, 2008.

The instant application is a continuation of Application No. 11/417,346, which was accorded status under 37 CFR 1.47. When a parent application has been accorded status under 37 CFR 1.47, an applicant may submit a copy of the declaration from the parent application and a copy of the parent application's Rule 47 decision letter instead of submitting a new petition under 37 CFR 1.47.[1]

The instant application contains copies of the declaration and Rule 47 decision from the prior application. Therefore, the declaration is accepted and the signing inventors may prosecute the application on behalf of the non-signing inventors.

The application is hereby accorded Rule 1.47(a) status.

The Office of Patent Application Processing will be informed of the instant decision and will continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] 37 CFR 1.63(d)(3) states, "Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by . . . A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit."

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JIANCHAO SHU
3719 FALLS TRAIL
WINSTON GA 30187

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
Jianchao Shu :
Application No. 11/894,210 : ON PETITION
Filed: August 20, 2007 :
Title: Fluid Control System :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704. No additional petition fee is required on renewed petition.

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).

The instant petition lacks item (1), the required reply. The Amendment submitted with the petition lacks a proper signature. In this regard, it is noted that the Amendment lacks a signature - only the Certificate of Mailing at the bottom of the page is signed.

Accordingly, on renewed petition, petitioner must submit a signed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARCUS G THEODORE, PC
466 SOUTH 500 EAST
SALT LAKE CITY, UT 84102

COPY MAILED

JUN 09 2008

In re Application of :
RUEHR, et al. :
Application No. 11/894,214 : DECISION ON PETITION
Filed: August 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 May 14, 2008 and re-submitted May 16, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of inventor Thomas A. Ruehr's driver's license, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-1700.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 1797 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET, STE. 1005
SEATTLE, WA 98101

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MAR 0 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Gust H. BARDY	:	
Application No. 11/894,281	:	DECISION ON PETITION
Filed: August 20, 2007	:	TO WITHDRAW
Attorney Docket No. 115.009USC3/03-406APM-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 **moot** because a revocation of power of attorney has been filed.

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 be directed to the address below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PAULY, DEVRIES SMITH & DEFFNER, LLC
PLAZA VII- SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Gust H. BARDY :
Application No. 11/894,302 : DECISION ON PETITION TO
Filed: August 20, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **115.0095USC4/03-419-APM-CO** :

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 **DISMISSED** as 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 the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **PAUL DEVRIES SMITH & DEFFNER, LLC**
45 S. SEVENTH STREET, PLAZA VII – SUITE 3000
MINNEAPOLIS, MN 55402-1630

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Cascadia Intellectual Property
500 Union Street
Suite 1005
Seattle, WA 98101

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Gust H. Bardy :
Application No. 11/894,305 : DECISION ON PETITION
Filed: August 20, 2007 : TO WITHDRAW
Attorney Docket No. 115.0089USC3/03-405-CON3 : FROM RECORD

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

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MAR 0 5 2008

OFFICE OF PETITIONS

SUSAN E. MONEY
8285 GOLDEN FLOWERS ST.
LAS VEGAS NV 89139

In re Application of

BRUNELLE, Kenneth et al.
Application No. 11/894,309
Filed: August 21, 2007
Attorney Docket No. **Piper-008**

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 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: **KENNETH BRUNELLE**
850 SOUTH RANCHO DRIVE #1005
LAS VEGAS, NV 89106

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUSAN E. MONEY
8285 GOLDEN FLOWERS ST.
LAS VEGAS NV 89139

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
BRUNELLE, Kenneth et al. :
Application No. 11/894,309 :
Filed: August 21, 2007 :
Attorney Docket No. **Piper-008** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Gust H. BARDY :
Application No. 11/894,312 : DECISION ON PETITION TO
Filed: August 20, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **115.0087USC4/03-400-CON4** :

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 **DISMISSED** as 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 the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **PAUL DEVRIES SMITH & DEFFNER, LLC**
45 S. SEVENTH STREET, PLAZA VII – SUITE 3000
MINNEAPOLIS, MN 55402-1630

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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500 UNION STREET
STE.1005
SEATTLE, WA 98101

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Gust H. Bardy :
Application No. 11/894,326 : DECISION ON PETITION
Filed: August 20, 2007 : TO WITHDRAW
Attorney Docket No. 003.0585.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 **DISMISSED** as 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 undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PAULY, DEVRIES, SMITH & DEFFNER, LLC
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

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
11/894,326	08/20/2007	Gust H. Bardy	003.0585.US.CON

CONFIRMATION NO. 8968

POWER OF ATTORNEY NOTICE

49475
CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE, WA 98101

OC000000034795827

Date Mailed: 03/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/snguyen/

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.
11/894,337	08/21/2007	Sang-Wook Oh	5000-1-1018	8496

7590 01/13/2009

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
YE, LIN	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
01/13/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/14/2009 NFARMER 0000165807

CHECK Refund Total: $900.00

Adjustment date: 01/14/2009 NFARMER
08/23/2007 WABDELR1 00000022 11894337
02 FC:1111 -500.00 OP
04 FC:1202 -400.00 OP

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JUN 2 9 2009

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of :
Cantor et al. : PETITION DECISION
Serial No.: 11/894,367
Filed: August 20, 2007
Attorney Docket No.: **532212000604**

This is in response to the petition under 37 CFR § 1.59(b), filed June 23, 2009, to expunge information from the above identified application. This application has not been allowed

Petitioner requests that the Information Disclosure Statement, June 23, 2009 containing documents subject to protective order and a proprietary document be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This application is under non-final action. Also, the information provided has not been reviewed. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/894,367	08/20/2007	Thomas L. Cantor	532212000604	8010

25225 7590 03/19/2010

MORRISON & FOERSTER LLP
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EXAMINER	
CHEU, CHANGHWA J	
ART UNIT	**PAPER NUMBER**
1641	

MAIL DATE	DELIVERY MODE
03/19/2010	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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MAR 19 2010

MORRISON & FOERSTER LLP
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SUITE 100
SAN DIEGO CA 92130-2040

In re Application of :
Cantor et al.
Serial No.: 11/894,367
Filed: August 20, 2007
Attorney Docket No.: **532212000604**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed March 5, 2010, to expunge information from the above identified application. This application has not been allowed

Petitioner requests that the Information Disclosure Statement filed March 5, 2010 containing documents subject to protective order and a proprietary document be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This application is under non-final action. Also, the information provided has not been reviewed. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/894,367	08/20/2007	Thomas L. Cantor	532212000604	8010

25225 7590 05/28/2010

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EXAMINER	
CHEU, CHANGHWA J	

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
05/28/2010	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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MAY 28 2010

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of :
Cantor et al.
Serial No.: 11/894,367
Filed: August 20, 2007
Attorney Docket No.: **532212000604**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed November 4, 2009, to expunge information from the above identified application. This application has not been allowed

Petitioner requests that the Information Disclosure Statement filed November 4, 2009 containing documents subject to protective order and a proprietary document be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This application is under non-final action. Also, the information provided has not been reviewed. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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4417 LANCASTER PIKE
WILMINGTON DE 19805

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OFFICE OF PETITIONS

In re Application of :
Kevin Patrick Mcallister et al :
Application No. 11/894,418 : DECISION GRANTING PETITION
Filed: August 21, 2007 :
Attorney Docket No. AD7481USNA :

This is a decision on the communication filed April 30, 2009, which is being treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of August 21, 2007, rather than the presently accorded date of August 22, 2007.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 21, 2007 pursuant to 37 CFR 1.10. In support, applicants have submitted a copy of their Express Mail Corporate Account Mailing Statement which includes Express Mail label No. EV716255890USUS and a date of August 21, 2007 as the date the postage was charged. The same Express Mail receipt number appearing on the corporate account statement was placed on the original patent application transmittal letter of record in the official file.

The evidence is convincing that the application was deposited in Express Mail service on August 21, 2007. Accordingly, the instant application is entitled to a filing date of August 21, 2007, and has been so accorded.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of **August 21, 2007**.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

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MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of :

ANDERSEN, Jacob R.S. :
Application No. 11/894,438 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. **DCL-06-1255R** : FROM RECORD
:

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 24, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JACOB R. S. ANDERSEN**
DRACCO COMPANY LIMITED
UNITED 1201-05, 12/F, STELUX HOUSE
NO. 698 PRINCE EDWARD ROAD EAST
SAN PO KONG, KOWLOON, HONG KONG

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PHILADELPHIA PA 19103

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In re Application of :

ANDERSEN, Jacob R.S. :
Application No. 11/894,438 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. **DCL-06-1255R** : FROM RECORD

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 15, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JACOB R. S. ANDERSEN**
DRACCO COMPANY LIMITED
UNITED 1201-05, 12/F, STELUX HOUSE
NO. 698 PRINCE EDWARD ROAD EAST
SAN PO KONG, KOWLOON, HONG KONG

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OFFICE OF PETITIONS

In re Application of :

ANDERSEN, Jacob R.S. :
Application No. 11/894,438 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. **DCL-06-1255R** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 15, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by T. Daniel Christenbury on behalf of all attorneys of record who are associated with customer No. 35811. All attorneys/agents associated with the Customer Number 35811 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Jacob Anderson 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: **MR. JACOB R. S. ANDERSEN**
DRACCO COMPANY LIMITED
UNIT 1201-05
12/F, STELUX HOUSE
NO. 698 PRINCE EDWARD ROAD EAST
SAN PO KONG, KOWLOON, HONG KONG

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OFFICE OF PETITIONS

SCOTT MOSKOWITZ
16711 COLLINS AVENUE, #2505
SUNNY ISLES BEACH FL 33160

In re Application of :
Scott A. Moskowitz et al :
Application No. 11/894,443 : ON PETITION
Filed: August 21, 2007 :
Attorney Docket No. 80410.0009CONT3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2007, to revive the above-identified application.

The petition is **DISMISSED** as Moot.

Petitioner states that the petition under 37 CFR 1.137(b), was filed because an express abandonment was filed in error in the above application.

The petition is dismissed as moot because a paper requesting express abandonment of an application is not effective unless and until an appropriate USPTO official recognizes and acts on the paper. **See MPEP section 711.01**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SCOTT MOSKOWITZ
16711 COLLINS AVENUE, #2505
SUNNY ISLES BEACH FL 33160

In re Application of :
MOSKOWITZ, Scott A. et al. :
Application No. 11/894,443 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. **80410.0009CONT3** : FROM RECORD
:

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 09, 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) and (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

There is no indication showing who is authorized to sign the request for withdrawal. (Please clarify). The address of record shows Scott Moskowitz as the correspondence address.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS CA 94070

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JUN 03 2008

In re Application of :
Zhao :
Application No. 11/894,445 : DECISION
Filed/Deposited: 21 August, 2007 :
Attorney Docket No. SHE0050.21 :

This is a decision on the "Petition Under 37 C.F.R. §1.57(a) And Amendment" filed on 6 November, 2007, requesting that the instant application be accorded a filing date of 21 August, 2007, under 37 C.F.R. §1.57(a), based on the inadvertently omitted drawings being present in the prior-filed co-pending nonprovisional application to which this application claimed benefit under 37 C.F.R. §1.78 on filing. In light of the record this petition is being treated pursuant to 37 C.F.R. 1.53(e)(2)[1].

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons stated herein, the petition as considered under the provisions of 3 7 C.F.R. §1.53(c)(2) is **GRANTED in part** and **DISMISSED in part**.

Application papers in the above-identified application were deposited on 21 August, 2007.

On 14 September, 2007, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the application was

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

deposited without drawings as required under 35 U.S.C. §113 (first sentence). The Office informed the Applicant that he/she might contend upon petition that the omitted items were received by the Office and so evidence (i.e., a copy of a date-stamped receipt card or Electronic Acknowledgment Receipt) and provide a copy of the omitted items; or submit the omitted missing items and accept the day of submission as the filing date.

On 6 November, 2007, Petitioner filed, *inter alia*, the instant petition with fee, with an averment that the nonprovisional Application No. 10/984,679 (filed on 8 November, 2004) averred to contain the 6 sheets of drawings/figures averred to have been inadvertently omitted), and avers inadvertent omission of drawings figures and Petitioner points to the prior-filed and then-copending nonprovisional Application No. 10/984,679 (filed on 8 November, 2004), the claim for priority thereto made in the specification of the instant application and avers incorporation by reference therein.

Procedures and showings required for correction of a failure to include specifications and/or drawings from an application are set forth at 37 C.F.R. §1.57.[2] The instant application was filed after 21 September, 2004, and thus, the provisions of 37 C.F.R. 1.57(a) are applicable.

Petitioner asserts that the application as deposited for filing on 21 August, 2007,included a claim for priority to the prior-filed nonprovisional Application No. 10/984,679 (filed on 8 November, 2004), and that the drawings were inadvertently omitted from the instant application on deposit. A review of the application confirms that on filing it included a claim (under §1.78) to the prior-filed nonprovisional application. The petition includes payment of the petition fee.

Petitioner's arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method claim. MPEP §601.01(f) provides that:

***

---

[2] The regulations at 37 C.F.R. §1.57 provide that: "(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s)." And: The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

- Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
- Supply an English language translation of any prior-filed application that is in a language other than English.
- Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113 (first sentence). The same practice has been followed in composition applications.
>
> ***

Thus, pursuant to §601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in MPEP §601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 C.F.R. §1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 C.F.R. §1.55 for priority of a prior-filed foreign application, or a claim under 37 C.F.R. §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portión of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

Please note that no petition is required and that the amendment must comply with 37 C.F.R. §1.57(a) and 37 C.F.R. §1.121. See MPEP § 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

A review of the application as deposited by Petitioner reveals that the application contains at least one method claim (e.g., Claim 1, Claim 2, Claim 3).

Thus, the argument of the petition, though obviously not so stated, is construed for the purposes of this decision to mean that drawings are not necessary for a filing date in this application.

In the absence of entry by the Examiner of an amendment, drawing(s) will not be further considered as a part of this application. (Should Petitioner seek to obtain entry of such amendment, Petitioner must present the Examiner with a copy of the prior-filed application averred to have been incorporated by reference in order to evidence the presence in the prior-filed application of the drawings averred herein to have been unintentionally omitted.)

In view of the foregoing, the Notice mailed on 14 September, 2007, hereby is withdrawn to the extent that it indicates no filing date will be granted.

CONCLUSION

The petition under 37 C.F.R. §1.53 is **granted in part** to the extent that the application will be accorded the filing date of 21 August, 2007, without the drawings as part of the original disclosure of the application; in all other respects the petition **is dismissed**. The Petition fee is waived and is refunded via Deposit Account 50-0348. Should Petitioner later find that a petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

This application is being referred to the Office of Patent Application Processing (OPAP) (formerly Office of Initial Patent Examination (OIPE)) to be processed for:

- **correction of the filing date to 21 August, 2007;**
- **for indication in Office records, as appropriate, with the 48 pages of specification (description, claims, abstract) deposited on 21 August, 2007, and "0" sheets of drawings were present on filing and**
- **for issuance of a filing receipt.**

Entry of an amendment—previously filed—will be determined by the Examiner.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MYERS DAWES ANDRAS & SHERMAN LLP
SUITE 1150
19900 MACARTHUR BLVD.
IRVINE CA 92612

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph Han	:	DECISION ON PETITION
Application No. 11/894,458	:	TO WITHDRAW
Filed: August 21, 2007	:	FROM RECORD
Attorney Docket No. FMI1.PAU.63	:	

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 9, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Vic Y. Lin on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

Currently, a Notice of Abandonment was mailed on March 6, 2009 concerning the above-identified application.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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CIERRA, INC. &
TOWNSEND & TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :

MALECKI, Williams et al. :
Application No. 11/894,467 : DECISION ON PETITION
Filed: August 20, 2007 : TO WITHDRAW
Attorney Docket No. **022128-000213US** : FROM RECORD
:

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 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 Douglas on behalf of all attorneys of record who are associated with customer No. 65689. All attorneys/agents associated with the Customer Number 65689 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **WILLIAM MALECKI**
510 CLAYTON STREET
SAN FRANCISCO CA 94117

cc: **TAKAHIRO MIURA**
OLBON, SPIVAK
1940 DUKE STREET
ALEXANDRIA VA 22314

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CHARLES J. PRESCOTT, P.A.
SUITE 115
2033 WOOD STREET
SARASOTA, FL 34237

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
John F. Bellantoni :
Application No. 11/894,471 : DECISION ON PETITION
Filed: August 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. P-2058 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 21, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred to the Office of Initial Patent Examination to await a reply to the Notice to File Corrected Application Papers mailed September 13, 2007. This application will be accorded "special" when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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JUL 11 2008

OFFICE OF PETITIONS

SCOTT MOSKOWITZ
16711 COLLINS AVENUE, #2505
SUNNY ISLES BEACH FL 33160

In re Application of	:	
Scott A. Moskowitz et al	:	
Application No. 11/894,476	:	ON PETITION
Filed: August 21, 2007	:	
Attorney Docket No. 80410.0009CONT2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2007, to revive the above-identified application.

The petition is **DISMISSED** as Moot.

Petitioner states that the petition under 37 CFR 1.137(b), was filed because an express abandonment was filed in error in the above application.

The petition is dismissed as moot because a paper requesting express abandonment of an application is not effective unless and until an appropriate USPTO official recognizes and acts on the paper. **See MPEP section 711.01**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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SEATTLE WA 98101

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OFFICE OF PETITIONS

In re Application of :
BARDY, Gust H. :
Application No. 11/894,514 : DECISION ON PETITION
Filed: August 20, 2007 : TO WITHDRAW
Attorney Docket No. **003.0618.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.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **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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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of :
Pandya, et al. : DECISION REFUSING STATUS
Application No. 11/894,526 : UNDER 37 CFR 1.47(a)
Filed: August 20, 2007 :
Atty. Dkt. No.: CEN 302CON :
For: SOFTWARE, SYSTEMS AND :
METHODS FOR MANAGING A :
DISTRIBUTED NETWORK :

This decision is in response to the petition under 37 CFR 1.47(a), filed August 20, 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 legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 20, 2007 without an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The required petition fee has been charged to petitioners' deposit account as authorized.

The materials submitted relate to U.S. App. No. 10/369,259. To the extent petitioners seek to rely on Rule 47 status in a prior application, the instant petition fails to comply with 37 CFR 1.63(d)(3) which sets forth that "[w]here the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by: (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under §of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and (ii) If one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application."

Otherwise, petitioners are required to establish, in accordance with 37 CFR 1.47(a), that 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) for the instant '526 application.

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 concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

In re Application of :
CORDERO, William R. :
Application No. 11/894,575 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. **RCORD-001A** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen Z. Vegh on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor William R. Cordero at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILLIAM R. CORDERO**
324 S. DIAMOND BAR BOULEVARD, PMB 264
DIAMOND BAR, CA 91765

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P.O. BOX 2938
MINNEAPOLIS, MN 55402

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APR 13 2010

OFFICE OF PETITIONS

In re Application of :
Laurel O. Sillerud et al :
Application No. 11/894,597 :
Filed: August 21, 2007 :
Attorney Docket No. MC 353

ON PETITION

This is a decision on the petition, filed April 9, 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 March 3, 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 2831 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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JUL 18 2008

In re Application of
Franklin E. Boyer et al.
Application No. 11/894,621
Filed: August 20, 2007
Attorney's Docket No. **UV-015 Cont 8**

ON PETITION

This is a decision on the petition filed June 9, 2008, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on November 14, 2007, for failure to timely reply to the Notice to File Missing Parts, mailed September 10, 2007, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment of the application. Accordingly, a Notice of Abandonment was mailed May 29, 2008.

The submission of the oath or declaration, substitute drawings, substitute specification as well as filing fees and late filing surcharge, as required by the Notice to File Missing Parts mailed September 10, 2007 is acknowledged.

All other requirements having been met, this 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
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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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
William Bradley et al. :
Application No. 11/894,624 : ON PETITION
Filed: August 20, 2007 :
Attorney Docket No. 07451.0050-07000 :

This is a decision on the petition filed October 20, 2008, under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 20, 2007, in response to the Notice of Omitted Items mailed August 18, 2008. The petition is treated under 37 CFR 1.182.

The petition is **DISMISSED AS INAPPROPRIATE**.

After the application was filed and a filing date accorded, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts" on September 12, 2007, stating that while the application had been accorded a filing date, that Figure 6A as described in the specification, appeared to have been omitted.

In response to the Notice, on October 29, 2007, petitioner filed an amendment stating that "Applicant accepts the application as deposited but wishes to add one missing sheet of drawing, in compliance with 37 CFR § 1.121 (d), that was inadvertently excluded from the application as submitted. Applicant submits Figure 6A." In response thereof, a Notice of Incomplete Reply was mailed November 8, 2007 again referencing the fact that Figure 6A was omitted, that while extensions of time were permitted, the period of reply remained as set forth in the Notice. Further, the Notice advised that a complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

Another response was filed November 20, 2007 noting that the previously omitted drawing figure was filed October 29, 2007. A Notice of Omitted Items was mailed August 18, 2008 again requesting the filing of Figure 6A and set a two month period for reply.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such

submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

In this case, applicants submit that the subject matter in the omitted Figure 6A is not new matter by virtue of the incorporation by reference under 37 C.F.R.§ 1.57 to a parent application (10/863,551) that contained Figure 6A at the time of its filing, thus electing option 3.

37 CFR 1.57(a) provides:

> [I]f all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but 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 portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim for priority or benefit shall be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawings. MPEP 201.17.

Therefore, if an application, as originally filed on or after September 21, 2004, does not include an explicit incorporation by reference statement in the specification, and is entitled to a filing date despite the inadvertent omission of a portion of the prior filed application(s), an applicant may be permitted to add the omitted material by filing an amendment under 37 CFR 1.57(a) within the time period set by the Office. See 37 CFR 1.57(a)(1) and MPEP 201.06(c)(IV).

A review of the record indicates that the above-identified application as originally filed on August 20, 2007 did in fact include an explicit incorporation by reference statement in the specification.

The inclusion of an incorporation by reference of the prior filed application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c). A review of the application-as-filed reveals that the specification, filed concurrently with the instant application, contained such a statement.

Obviously, in view of the incorporation by reference, Figure 6A, as described in the specification, is not new matter if it was a part of the disclosure of the prior filed applications.

Accordingly, the petition is **DISMISSED**.

The petition fee in the amount of $400 will be credited back to deposit account no. 06-0916.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of August 20, 2007, using the application papers received in the Office on that date and with an indication in Office records that Figure 6A, as described in the specification while not included with the application papers upon filing, was a part of the original disclosure.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

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DEPARTMENT OF THE NAVY
OFFICE OF COUNSEL
3824 STRAUSS AVE, SUITE 103
INDIAN HEAD MD 20640-5152

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JUN 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Laib et al.	:	
Application No. 11/894,630	:	DECISION ON PETITION
Filed: July 31, 2007	:	
Attorney Docket No. 98,421	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before May 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 5, 2010, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on May 6, 2010. A Notice of Abandonment was mailed June 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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PATENT DOCKETING 39/361
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NEW YORK NY 10036-8704

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JUL 18 2008

In re Application of :
Michael D. Ellis :
Application No. 11/894,666 : ON PETITION
Filed: August 20, 2007 :
Attorney Docket No.UV-48 CON

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed June 25, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 13, 2007, after it was believed that no response was received to the Notice to File Missing Parts of Non-Provisional Application mailed September 12, 2007. The notice allowed an extendable period for reply of two (2) months from its mailing date. A Notice of Abandonment was mailed on May 30, 2008, indicating that a reply to the notice was not received.

The instant petition maintains that a response to the notice was faxed on April 11, 2008, with a request for an extension of time within the fifth month. A copy of the response containing a certificate of transmission under 37 CFR 1.8 dated April 11, 2008, accompanied the petition as did a copy of the Auto Reply Transmission sheet generated by the USPTO acknowledging receipt of 33 pages on April 11, 2008.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded to the Office of Patent Application Processing further processing including entry of the response to the Notice to File Missing Parts of Non-Provisional Application that was re-filed on June 25, 2008.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/894,668	08/20/2007	Dov Tamarkin	0113873.00125US4	8170

7590 08/01/2008

WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

EXAMINER
LANDAU, SHARMILA GOLLAMUDI

ART UNIT	PAPER NUMBER
1611	

NOTIFICATION DATE	DELIVERY MODE
08/01/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Notice of Abandonment	Application No.	Applicant(s)	
	11/894,668	TAMARKIN ET AL.	
	Examiner	Art Unit	
	Sharmila Landau	1611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☒ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/BETTY POWELL/
Office of Data Management

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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MARK J. PANDISCIO
PANDISCIO & PANDISCIO, P.C.
470 TOTTEN POND ROAD
WALTHAM, MA 02451

MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Application of :
James Julian Kimbrough, Jr. :
Application No. 11/894,675 : ON PETITION
Filed: August 21, 2007 :
Attorney Docket No. KIM-1 CON :

This is a decision in response to the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181, filed April 6, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of September 8, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 8, 2008; however, the maximum statutory period for response ended on March 9, 2009, since March 8, 2009 was a Sunday.

Petitioner states that a timely reply was filed. To support this assertion, petitioner submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 13, 2009 of, *inter alia,* Amendment (11 pages) and Time Extension Petition (3 months). A copy of the previously submitted reply, bearing a certificate of mailing dated March 9, 2009, accompanies the petition.

A review of the written record confirms that an amendment, including an appropriate 3-month extension of time, was filed on March 13, 2009, using a Certificate of Mailing under 37 CFR 1.8 dated March 9, 2009, as it is present in the file. Accordingly, the amendment was timely received in the USPTO and no abandonment existed.

The holding of abandonment for failure to timely file a response to the Office action of September 8, 2008 is withdrawn and the application is restored to pending status. The Notice of Abandonment mailed March 19, 2009 is hereby vacated.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received March 13, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No.

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OCT 27 2009

OFFICE OF PETITIONS

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of :
Vukicevic et al. :
Application No. 11/894,703 : DECISION ON PETITION
Filing Date: August 20, 2007 : PURSUANT TO 37 C.F.R.
Attorney Docket Number: : § 1.78(A)(6)
STK-070 DIV CON2 :
Title: REPAIR OF LARYNX, :
TRACHEA, AND OTHER :
FIBROCARTILAGINOUS TISSUES :

This is a decision on the petition under 37 C.F.R. § 1.78(a)(6), filed September 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in an amendment to the specification and the Supplemental Application Data Sheet (ADS); both of which were submitted concurrently with this petition.

The petition is **DISMISSED.**

A petition under 37 C.F.R. § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 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.

37 C.F.R. § 1.78(a)(6)(iii) requires 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. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has included the surcharge and a statement which is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii). As such, requirements (2) and (3) have been satisfied.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional application, along with two non-provisional applications and an international application.[1] An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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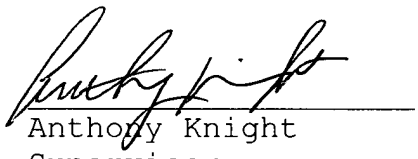
1 Although a benefit claim involving the latter three applications was claimed in the "domestic priority information" of the ADS that was present on filing, none of these three applications were incorporated by reference on filing.

Moreover, the Supplemental ADS cannot be accepted as it has not been executed. Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a Supplemental Application Data Sheet or a substitute amendment (complying with the provisions of 37 C.F.R. § 1.121 and 37 C.F.R. § 1.76(b)(5)) to correct the above matters are required.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Anthony Knight
Supervisor
Office of Petitions

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ROPES & GRAY LLP
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DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Vukicevic et al. :
Application No. 11/894,703 : DECISION ON RENEWED PETITION
Filing Date: August 20, 2007 : PURSUANT TO 37 C.F.R.
Attorney Docket Number: : § 1.78(A)(6)
STK-070 DIV CON2 :
Title: REPAIR OF LARYNX, :
TRACHEA, AND OTHER :
FIBROCARTILAGINOUS TISSUES :

This is a decision on the renewed petition under 37 C.F.R. § 1.78(a)(6), filed November 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in an amendment to the specification and the Supplemental Application Data Sheet (ADS); both of which were submitted concurrently with this renewed petition.

This renewed petition is **GRANTED**.

A petition under 37 C.F.R. § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 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.

An original petition under 37 C.F.R. § 1.78(a)(6) was filed on September 10, 2009, and was dismissed via the mailing of a decision on October 27, 2009, which indicated that requirements (2) and (3) of 37 C.F.R. § 1.78(a)(6) had been satisfied.

With this renewed petition, Petitioner has included the statement required by 37 C.F.R. § 1.78(a)(6)(iii), along with both an acceptable amendment to the specification and a properly executed supplemental ADS. As such, the first requirement of 37 C.F.R. § 1.78(a)(6) has been satisfied.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The duplicate surcharge that was submitted concurrently with this renewed petition will be refunded to Petitioner's Deposit Account in due course.

Any inquiries concerning this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries

concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1652 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/894,703	08/20/2007	1652	1160	STK-070 DIV CON2	19	3

CONFIRMATION NO. 8508

CORRECTED FILING RECEIPT

1473
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Date Mailed: 12/15/2009

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)

Slobodan Vukicevic, Zagreb, CROATIA;
Vladimir Katic, Zagreb, CROATIA;
Kuber T. Sampath, Holliston, MA;

Power of Attorney:
James Haley Jr--27794
Margaret Pierri--30709
Jane Gunnison--38479
Karen Mangasarian--43772

Domestic Priority data as claimed by applicant

This application is a CON of 11/192,542 07/28/2005
which is a DIV of 09/828,607 04/06/2001 PAT 6,958,149
which is a CON of PCT/US99/17222 07/30/1999
which claims benefit of 60/103,161 10/06/1998

Foreign Applications

If Required, Foreign Filing License Granted: 10/24/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/894,703**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Repair of larynx, trachea, and other fibrocartilaginous tissues

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Philip A. Beachy et al. :
Application No. 11/894,712 : NOTICE
Filed: August 20, 2007 :
Attorney Docket No. **JHUC-P06-010** :

This is a notice regarding your request filed May 20, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Rueger, et al. :
Application No. 11/894,718 : ON PETITION
Filed: August 20, 2007 :
Attorney Docket No. STK-071 CIP CON3 :
For: OSTEOGENIC DEVICES AND METHODS OF USE THEREOF FOR REPAIR OF ENDOCHONDRAL BONE AND OSTEOCHONDRAL DEFECTS

This decision is mailed in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 24, 2009. In addition, this decision addresses the petition under 37 CFR 1.137(b), which was filed in the alternative in the same paper as the petition under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to properly reply to the Notice to File Missing Parts of Application mailed November 1, 2007, which set a two month shortened statutory period to submit filing fees, a surcharge, and replacement drawing figures. On June 2, 2008, applicants filed a petition for a five month extension of time (the maximum available), filing fees, the surcharge, and a preliminary amendment. Applicants inadvertently did not include replacement drawing figures. This application became abandoned on June 2, 2008. A Notice of Abandonment was mailed on January 23, 2009.

Applicants argue that the application is not abandoned because a *bona fide* reply was timely filed. Applicants are reminded that the November 1, 2007 Notice required applicants to submit filing fees, a surcharge, and replacement drawings within the extendable period for reply to avoid abandonment of the application. Applicants did not file a complete reply within the extended period for reply. Thus, the application became abandoned on June 2, 2008. The petition to withdraw the holding of abandonment is dismissed.

Regarding the petition under 37 CFR 1.137(b): Applicants have submitted a proper reply to the November 1, 2007 Notice in the form of filing fees, the surcharge, and replacement drawings, an acceptable statement of the unintentional nature of the delay in responding to the November 1, 2007 Notice, and the $1,620.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK NY 10036-8704

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of
Kucherlapati, et al.
Application No. 11/894,775
Filed: August 20, 2007
Attorney Docket No. 000659-0098-105

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 application set forth in the amendment and supplemental ADS filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is 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. 10/658,521, filed September 8, 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 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

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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ROPES & GRAY, LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of :
De Chao Yu, et. al. :
Application No. 11/894,776 : ON PETITION
Filed: August 20, 2007 :
Attorney Docket No. 105576-0015-104 :

This is a decision on the petition under 37 CFR 1.137(b), filed on November 25, 2008, to revive the above-identified application.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Teresa A. Chen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $300 for the basic filing fee, $540 for the search fee, $220 for the examination fee, $390 for claims and the $130 surcharge; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NEW YORK NY 10036-8704

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of :

YU, De Chao et al. :
Application No. 11894,776 : DECISION ON PETITION
Filed: August 20, 2007 : TO WITHDRAW
Attorney Docket No. **105576-0015-104** : FROM RECORD
:

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 09, 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) and (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: **SCOTT MOSKOWITZ**
16711 COLLINS AVENUE #2505
SUNNY ISLES BEACH FL 33160

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIW Aug-08

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1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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AUG 19 2008

In re Application of	:	
Yuen et al.	:	DECISION ON PETITION TO
Application Number: 11/894777	:	WITHDRAW HOLDING OF
Filing Date: 08/20/2007	:	ABANDONMENT
Attorney Docket Number: IS-69 CON2	:	

This is a decision on the petition filed on June 25, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on September 11, 2007, which set a two (2)-month shortened period for reply. No reply having been received, Notice of Abandonment was mailed on May 30, 2008.

Petitioners aver that a reply was timely filed by facsimile on April 11, 2008. In support, petitioners submitted with the petition a copy of the reply allegedly filed. The transmittal letter accompanying the reply bears a certificate of transmission by facsimile dated April 11, 2008, signed by counsel's Patent Clerk, Brian Scherler. The petition is also accompanied by a declaration by Mr. Scherler attesting to the fact that he transmitted the response by facsimile to the USPTO at 571-273-8300 on April 11, 2008. A copy of the sending unit's receipt as well as the USPTO Auto-Reply Facsimile Transmission report,

showing receipt of 21 pages on April 11, 2008, has also been supplied.

Lastly, petitioners have supplied a copy of the Notice to File Missing Parts, a petition for extension of time under 37 CFR 1.136(a) (five (5) months); the required claim listing in the form of a preliminary amendment, and authorization to charge the required fees to counsel's deposit account.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

As petitioners have provided convincing evidence that a response to the Notice to File Missing Parts of Nonprovisional Application was transmitted to the USPTO on April 11, 2008, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is **withdrawn**, and the notice of abandonment is **vacated**.

The required fees will be charged to counsel's deposit account as authorized in the papers filed with the present petition.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

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OCT 27 2009

OFFICE OF PETITIONS

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of	:	
Vukicevic et al.	:	
Application No. 11/894,781	:	DECISION ON PETITION
Filing Date: August 22, 2007	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.78(A)(6)
STK-070 DIV CON3	:	
Title: REPAIR OF LARYNX,	:	
TRACHEA, AND OTHER	:	
FIBROCARTILAGINOUS TISSUES	:	

This is a decision on the petition under 37 C.F.R. § 1.78(a)(6), filed September 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in an amendment to the specification and the Supplemental Application Data Sheet (ADS); both of which were submitted concurrently with this petition.

The petition is **DISMISSED.**

A petition under 37 C.F.R. § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R.

> § 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.

37 C.F.R. § 1.78(a)(6)(iii) requires 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. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has included the surcharge and a statement which is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii). As such, requirements (2) and (3) have been satisfied.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional application, along with two non-provisional applications and an international application.[1] An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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1 Although a benefit claim involving the latter three applications was claimed in the "domestic priority information" of the ADS that was present on filing, none of these three applications were incorporated by reference on filing.

Moreover, the Supplemental ADS cannot be accepted as it has not been executed. Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either a Supplemental Application Data Sheet or a substitute amendment (complying with the provisions of 37 C.F.R. § 1.121 and 37 C.F.R. § 1.76(b)(5)) to correct the above matters are required.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

ROPES & GRAY LLP
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DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Vukicevic et al. :
Application No. 11/894,781 : DECISION ON RENEWED PETITION
Filing Date: August 22, 2007 : PURSUANT TO 37 C.F.R.
Attorney Docket Number: : § 1.78(A)(6)
STK-070 DIV CON3 :
Title: REPAIR OF LARYNX, :
TRACHEA, AND OTHER :
FIBROCARTILAGINOUS TISSUES :

This is a decision on the renewed petition under 37 C.F.R. § 1.78(a)(6), filed November 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in an amendment to the specification and the Supplemental Application Data Sheet (ADS); both of which were submitted concurrently with this renewed petition.

This renewed petition is **GRANTED**.

A petition under 37 C.F.R. § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R.

§ 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.

An original petition under 37 C.F.R. § 1.78(a)(6) was filed on September 10, 2009, and was dismissed via the mailing of a decision on October 27, 2009, which indicated that requirements (2) and (3) of 37 C.F.R. § 1.78(a)(6) had been satisfied.

With this renewed petition, Petitioner has included the statement required by 37 C.F.R. § 1.78(a)(6)(iii), along with both an acceptable amendment to the specification and a properly executed supplemental ADS. As such, the first requirement of 37 C.F.R. § 1.78(a)(6) has been satisfied.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The duplicate surcharge that was submitted concurrently with this renewed petition will be refunded to Petitioner's Deposit Account in due course.

The application is being forwarded to Technology Center AU 1646 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/894,781	08/20/2007	1646	1160	STK-070 DIV CON3	18	3

CONFIRMATION NO. 8206

CORRECTED FILING RECEIPT

1473
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Date Mailed: 12/15/2009

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)

Slobodan Vukicevic, Zagreb, CROATIA;
Vladimir Katic, Zagreb, CROATIA;
Kuber T. Sampath, Holliston, MA;

Power of Attorney:
James Haley Jr--27794
Margaret Pierri--30709
Jane Gunnison--38479
Karen Mangasarian--43772

Domestic Priority data as claimed by applicant

This application is a CON of 11/192,542 07/28/2005
which is a DIV of 09/828,607 04/06/2001 PAT 6,958,149
which is a CON of PCT/US99/17222 07/30/1999
which claims benefit of 60/103,161 10/06/1998

Foreign Applications

If Required, Foreign Filing License Granted: 10/23/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/894,781**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Repair of larynx, trachea, and other fibrocartilaginous tissues

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/894,798	08/20/2007	Dov Tamarkin	0113873.00160US2	9198

7590 08/22/2008

WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

EXAMINER	
LANDAU, SHARMILA GOLLAMUDI	
ART UNIT	PAPER NUMBER
1611	
NOTIFICATION DATE	DELIVERY MODE
08/22/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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Adjustment date: 08/21/2008  BPOWELL
11/15/2007 INTEFSW  00003579 080219    11894798
02 FC:1111          510.00 CR
04 FC:1202         5650.00 CR
05 FC:1201         1050.00 CR
06 FC:1203          370.00 CR
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ROPES & GRAY LLP
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BOSTON MA 02110-2624

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MAY 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Gellman et al.	:	
Application Number: 11/894799	:	DECISION ACCORDING STATUS
Filing Date: 08/20/2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket Number: MIY-P07-006	:	

This is a decision on the petition filed on April 14, 2008, under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioners have shown that non-signing inventors, Raymond Rackley, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, counsel's Patent Legal Secretary, Raquel Howard, states in her First Statement of Facts for Raymond Rackley states that she mailed a copy of the application papers to Rackley, but that he orally stated to her in a phone call that he would not sign the declaration. Petitioners have also included a declaration by petitioner's registered patent practitioner, Carl A. Morales, in which he states that he spoke to Rackley, who stated that he would not sign the declaration.

Petitioners have also shown that, via Raquel Howard's Statement of Facts for William Martin, that she sent a copy of the application to inventor William Martin's last known address, but that the envelope was returned as undeliverable. She then conducted an internet and phone search for Martin, but was unable to locate him.

Accordingly, the showing of record is that non-signing inventor Rackley has expressly refused to sign the declaration, and that non-signing inventor Martin could not be located despite diligent efforts.

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 the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

It is noted that $400.00 has been submitted towards the petition fee. The fee due for a petition under 37 CFR 1.47(a) is $200. Accordingly, the overpayment of $200.00 will be credited to counsel's deposit account.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DTW May-08

Raymond Rackley
3199 Falmouth Road
Shaker Heights OH 44122

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MAY 15 2008

OFFICE OF PETITIONS

In re Application of
Gellman et al.
Application No. 11/894,799
Filed: August 20, 2007
For: DEVICE FOR MINIMALLY INVASIVE PELVIC SURGERY

Dear Dr. Rackley:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-08

William Martin
56 Winterberry Drive
Franklin MA 02038

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MAY 15 2008

OFFICE OF PETITIONS

In re Application of
Gellman et al.
Application No. 11/894,799
Filed: August 20, 2007
For: DEVICE FOR MINIMALLY INVASIVE PELVIC SURGERY

Dear Mr. Martin:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ROPES & GRAY LLP
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ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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Paper No. 9

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DEC 29 2009
OFFICE OF PETITIONS

COOPER & DUNHAM, L.L.P.
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK NY 10112

In re Application of	:
Jingyue Ju, et al.	:
Application No. 11/894,808	: DECISION DISMISSING
Filed: August 20, 2007	: PETITION UNDER
Attorney Docket No. 0575/62239-BZC/JPW/BJA	: 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 18, 2009 and resubmitted on December 22, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until December 28, 2009. The application issued as U.S. Patent No. 7,635,578 on December 22, 2009. Since the case has now issued, the petition to withdraw from issue cannot be granted.

Further, the Patent and Trademark Office was closed on Monday, December 21, 2009 due to inclement weather.

Petitioner is encouraged to also note **MPEP 1308** which states:

> While a petition to withdraw an application from issue may be granted as late as one day prior to the patent issue date, to avoid publication and dissemination, the petition decision must be granted at least 3 weeks prior to the issue date.
>
> The Office cannot ensure that any petition under 37 CFR 313(c) will be acted upon prior to the date of patent grant. (Emphasis added)

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $405.00 filing fee and the $130.00 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/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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Paper No. 9

COOPER & DUNHAM, L.L.P.
30 ROCKEFELLER PLAZA
20TH FLOOR
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Jingyue Ju, et al.	:	
Application No. 11/894,808	:	DECISION DISMISSING
Filed: August 20, 2007	:	REQUEST UNDER 37 CFR
Attorney Docket No. 0575/62239-BZC/JPW/BJA	:	§1.181(f)
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. §1.181(f) OF DECEMBER 29, 2009 DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.313(c)(2)."

The Request under 37 C.F.R. §1.181(f)is **DISMISSED**.

As was stated in the Decision mailed December 29, 2009, petitioner's attention was directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

Petitioner was further encouraged to also note **MPEP 1308** which states:

> While a petition to withdraw an application from issue may be granted as late as one day prior to the patent issue date, to avoid publication and dissemination, the petition decision must be granted at least 3 weeks prior to the issue date.
>
> The Office cannot ensure that any petition under 37 CFR 313(c) will be acted upon prior to the date of patent grant. (Emphasis added)

In view of the above, the request under 37 CFR §1.181(f) is dismissed.

The papers filed with the petition have been placed in the file.

Telephone inquiries 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DAVID B. WALLER & ASSOCIATES
5677 OBERLIN DRIVE
SUITE 214
SAN DIEGO, CA 92121

In re Application of :
Young K. Kim :
Application No. 11/894,820 : DECISION ON PETITION
Filed: August 22, 2007 : TO WITHDRAW
Attorney Docket No. KIM.001.P : FROM RECORD
:

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 21, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: YOUNG KIM
7760 BALDEN STREET
APARTMENT B-2
SAN DIEGO, CA 92111

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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DAVID B. WALLER & ASSOCIATES
SUITE 214
5677 OBERLIN DRIVE
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of
Young K. Kim
Application No. 11/894,820
Filed: August 22, 2007
Attorney Docket No. KIM.001.P

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David B. Waller on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YOUNG B. KIM
7760 BALDEN STREET,
APT. 2
SAN DIEGO, CA 92111

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/894,820	08/22/2007	Young K. Kim	KIM.001.P

CONFIRMATION NO. 9054

POWER OF ATTORNEY NOTICE

David B. Waller & Associates
Suite 214
5677 Oberlin Drive
San Diego, CA 92121

OC000000033198659

Date Mailed: 11/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/25/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SPANSION LLC C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FOOR
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of :
Masanori Onodera et al :
Application No. 11/894,828 : DECISION ON PETITION
Filed: August 22, 2007 :
Attorney Docket No. SPSN-AF01443D :

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 the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 31, 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

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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Dardi & Associates, PLLC
US Bank Plaza
Suite 2000
220 South 6th Street
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Ming Yan	: DECISION ON REQUEST FOR
Patent Number	: 7574084	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/894,843	: OF WYETH
Filed	: 08/22/2007	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/01/10

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11894846 Patent No.: 7505492

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

MINSUN OH
PRIMARY

SPE 2929 **Art Unit**

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OFFICE OF PETITIONS

KIRSCHSTEIN, OTTINGER, ISRAEL
& SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017

In re Application of :
Ezra Esses : DECISION ON PETITION
Application No. 11/894,852 :
Deposited: August 22, 2007 :
Atty Docket No. ESO :

This is in response to the "RESPONSE TO NOTICE OF INCOMPLETE NON-PROVISIONAL APPLICATION & PETITION", filed on September 18, 2007 requesting that the above-identified application be accorded a filing date of August 22 2007.

The petition is **dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Application papers in the above-identified application were deposited on August 22, 2007. However, on September 11, 2007, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant the application had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, applicant timely filed this petition. Applicant requests that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.78 to a prior filed and co-pending non-provisional application (11/156,858) in which the inadvertently omitted drawing figures 1-5 are found.

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 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 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).

It is noted that the application as filed included a claim under 1.78 for the benefit of prior-filed application No. 11/156,858. Thus, pursuant to 1.57, the application as filed is considered to have incorporated by reference the prior filed application as to the inadvertently omitted drawings.

However, each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Accordingly the petition is **DISMISSED**.

On renewed petition, petitioner must submit properly labeled drawings pursuant to 37 CFR 1.121 (d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to Petitions Attorney Charlema R. Grant at 571.272.3215.

Charles A. Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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& SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of
Ezra Esses
Application No. 11/894,852
Deposited: August 22, 2007
Atty Docket No. ESO

: DECISION ON PETITION

This is a decision on the renewed petition filed February 25, 2008, requesting that the above-referenced application be accorded a filing date of September 17, 2007. This petition is properly treated under 37 CFR 1.57.

Application papers in the above-identified application were deposited on August 22, 2007. However, on September 11, 2007, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant the application had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113. A petition filed under 37 CFR 1.57 was dismissed on February 7, 2008.

In response, applicant timely filed this petition. Applicant requests that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.78 to a prior filed and co-pending non-provisional application (11/156,858) in which the inadvertently omitted drawing figures 1-5 are found.

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 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 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).

It is noted that the application as filed included a claim under 1.78 for the benefit of prior-filed application No. 11/156,858. Thus, pursuant to 1.57, the application as filed is considered to have incorporated by reference the prior filed application as to the inadvertently omitted drawings.

The instant petition includes an identification of where the inadvertently omitted drawings may be found in the prior-filed application. The petition fee was previously received on September 18, 2007.

In view of the incorporation by reference of the prior application, the drawings supplied on February 25, 2008, would not constitute new matter if it were a part of the original disclosure of the prior application. Of course, the examiner is expected to compare the drawings supplied on February 25, 2008, to the disclosure of nonprovisional application No. 11/156,858 in order to verify that it is an accurate copy of the prior drawings and that it contains no new matter.

In view thereof, the petition is **GRANTED**.

The application is being forwarded to the Office of Patent Application Processing for **according of a filing date of August 22, 2007**, including the copy of drawings from nonprovisional application 11/156,858 supplied on February 25, 2008. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Charlema R. Grant at 571.272.3215.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN R LEY, LLC
5299 DTC BLVD, SUITE 340
GREENWOOD VILLAGE CO 80111

11/13/09

In re Application of:
GARCIA, STEVEN E. et al
Serial No.: 11/894,874
Filed: August 22, 2007
Docket: 190.334
Title: TOOL FOR PULLING AND CUTTING A Z-AXIS ELECTRICAL INTERCONNECTOR

DECISION ON PETITION

This is a decision on the petition filed on November 4. 2009 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed on November 18, 2008 regarding Groups I, II and III inventions. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the record reveals that a restriction requirement, inter alia, based on a combination and subcombination was issued on November 18, 2008. The applicant elected Group I invention, claims 1-14 on December 10, 2008. Claims 15-29 remained withdrawn from consideration due to non-elected inventions. It is also noted that the non-elected method claims 7-29 have been canceled in favor of a divisional application. Therefore, the election of the apparatus claims has been treated as an election without traversed.

In the petition, petitioner requests that the non-elected subcombination claims 15-16 and along with their dependent claims 30-41 be rejoined because these claims are so sufficiently and essentially related. They should be examined together in a single application. Petitioner also opines that the independent claims 1, 15 and 16 include the same essential characteristics. Those essential characteristics are the basis upon which claim 1 has been allowed. Therefore, the restriction requirement should be withdrawn. Claims 15, 16 and 30-41 should be rejoined and allowed with the previously elected and allowed claims 1-14.

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement with respect to Groups I, II and III inventions mailed on November 18, 2008 is hereby withdrawn. Claims 15-16 and 30-41 will be rejoined with the elected invention

as claimed in claims 1-14 of Group I invention. The examiner has been requested to issue an Office action to treat claims 15-16 and 30-41 on the merits.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3729 for entry of July 15, 2009 amendment and preparation an Office action to include claims 1-16 and 30-42 on the merits.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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ASHOK TANKHA
OF COUNSEL, LIPTON, WEINBERGER
& HUSICK
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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OFFICE OF PETITIONS

In re Application of :
Satish C. MOHAPATRA et al. :
Application No. 11/894,883 : DECISION ON PETITION
Filed: August 21, 2007 :
Attorney Docket No. Dynalene_03 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 11, 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 14, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required corrected application papers; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of September 11, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

KENNETH S WATKINS JR
372 RIVER DR
DAHLONEGA, GA 30533

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DEC 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Kenneth S. Watkins, Jr. :
Application No. 11/894,904 : DECISION ON PETITION
Filed: August 22, 2007 :
Attorney Docket No. PAC-05 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before September 28, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 26, 2009. Accordingly, the date of abandonment of this application is September 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 payment of the issue fee of $755 and corrected formal drawings , (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

This application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York NY 10018

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of :
Dominique Malkic et al. :
Application No. 11/894,937 : DECISION ON PETITION
Filed: August 22, 2007 :
Attorney Docket No. 6003.1133 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 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, August 8, 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 November 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2854 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ZALE PATENT LAW
434 LACKAWANNA AVE, SUITE 200
SCRANTON, PA 18503-2053

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Victoria SUAREZ, et al	:	
Application No. 11/894,958	:	DECISION ON PETITION
Filed: August 22, 2007	:	TO WITHDRAW
Attorney Docket No. W-01123 ELEVEN MNS	:	FROM RECORD
	:	

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 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 Lawrence P. Zale 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.

All future communications from the Office will be directed to the first signing inventor at the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: VICTORIA SUAREZ
201 LACKAWANNA AVENUE,
SUITE 225
SCRANTON, PA 18503

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NUVASIVE
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED

AUG 26 2009

OFFICE OF PETITIONS

In re Application of :
James F. Marino :
Application No. 11/894,987 : DECISION ON PETITION
Filed: August 21, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 028US3 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 7, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3736 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

/KOC/
Karen Creasy
Petition 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
11/894,987	08/21/2007	3736	525	028US3	21	3

CONFIRMATION NO. 9762

CORRECTED FILING RECEIPT

30328
NuVasive
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

OC000000037520165

Date Mailed: 08/26/2009

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)

James F. Marino, La Jolla, CA;

Assignment For Published Patent Application

Nu Vasive, Inc., San Diego, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/722,070 11/24/2000 PAT 7,470,236
which claims benefit of 60/167,416 11/24/1999

Foreign Applications

If Required, Foreign Filing License Granted: 09/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/894,987**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Electromyography system

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Michael E. Butenhoff	: DECISION ON REQUEST FOR
Patent Number	: 7626467	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/894,997	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 05/17/2010

Applicant : Michael E. Butenhoff
Patent Number : 7626467
Issue Date : 12/01/2009
Application No: 11/894,997
Filed : 08/22/2007

: 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 **5** 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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CHERNOFF VILHAUER MCCLUNG & STENZEL, LLP
601 SW SECOND AVENUE
SUITE 1600
PORTLAND, OR 97204-3157

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SEP 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Robert E. Douglass :
Application No. 11/895,001 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. 8978.9999 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 2009.

The request is **APPROVED**.

The request was signed by Charles D. McClung on behalf of the practitioners of record associated with Customer No. 03-1550.

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed May 12, 2009 that requires a reply from the applicant.

All future correspondence will be directed to inventor Robert E. Douglass 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: Robert E. Douglass
Sweetheart Nursery, Inc.
24990 S. Larkin Road
Beavercreek, OR 97004

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
11/895,001	08/21/2007	Robert E. Douglass	8978.9999

CONFIRMATION NO. 9778

POWER OF ATTORNEY NOTICE

152
CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP
601 SW Second Avenue
Suite 1600
PORTLAND, OR 97204-3157

Date Mailed: 09/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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
11/895,001	08/21/2007	Robert E. Douglass	8978.9999

CONFIRMATION NO. 9778

POA ACCEPTANCE LETTER

Robert E. Douglass
Sweetheart Nursery, Inc.
24990 S. Larkin Road
Beavercreek, OR 97004

Date Mailed: 09/03/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NOV 17 2009

OFFICE OF PETITIONS

MICHAEL A. GUTH
2-2905 EAST CLIFF DRIVE
SANTA CRUZ CA 95062

In re Application of :
David F. DORSEY :
Application No. 11/895,019 : DECISION ON PETITION
Filed: August 22, 2007 :
Attorney Docket No. 1101-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed September 11, 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 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6735.

This application is being referred to the Office of Patent Application Processing for processing in the normal course of business on the reply received September 11, 2009.

/Diane C. Goodwyn/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACQUELINE S LARSON
245 AVINGTON ROAD
ALAMEDA CA 94502

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
John Parkinson et al. :
Application No. 11/895,027 : DECISION ON PETITION
Filed: August 21, 2007 : TO WITHDRAW
Attorney Docket No. **BSPH-009N** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 8, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Jacqueline Larson on behalf of all attorneys of record who are associated with Customer No. 23979.

All attorneys/agents associated with the Customer No. 23979 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee of record "Bayer Schering Pharma Aktiengesellschaft" at the address list below.

There is an outstanding office action mailed on July 6, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Bayer Schering Pharma Aktiengesellschaft
Müllerstrasse 178
Berlin D-133-42 DE GERMANY

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
11/895,027	08/21/2007	John Parkinson	BSPH-009N

CONFIRMATION NO. 9041

POWER OF ATTORNEY NOTICE

23979
JACQUELINE S LARSON
245 AVINGTON ROAD
ALAMEDA, CA 94502

OC00000038385421

Date Mailed: 10/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/08/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES ROBERT YOUNG
4917 E. NEW YORK ST.
INDIANAPOLIS IN 46201

COPY MAILED

OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
James Robert Young :
Application No. 11/895,063 : DECISION ON PETITION
Filed: August 24, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 24, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a 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 3711 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,579,340 B2
Ser. No. : 11/895,069
Inventor(s) : Biediger et al.
Issued : Aug. 25, 2009
Title : PHENYLENEDIAMINE UROTENSIN-11 RECEPTOR ANTAGONISTS AND CCR-9 ANTAGONISTS
Docket No. : PC22243C

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PFIZER INC.
PATENT DEPARTMENT
Bld 114 M/S 9114
EASTERN POINT ROAD
GROTON CT 06340

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Patent of Biediger, et al. :
Patent No. 7,579,340 :
Issued: August 25, 2009 : NOTICE
Application No. 11/895,069 :
Filed: August 22, 2007 :
Attorney Docket No. PC22243C

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 17, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Vernon H. Batdorf
5014 41st Ave SO
Minneapolis MN 55417

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SEP 11 2008

In re Application of :
Vernon H. Batdorf :
Application No. 11/895094 :
Filing or 371(c) Date: 08/23/2007 :
Attorney Docket Number: :
110-7-US-4 : ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed June 16, 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 September 17, 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 November 18, 2007. A Notice of Abandonment was mailed June 4, 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.

Applicant is advised that the Office received the filing fee of $150.00, and an additional $180.00 which was an undetermined claims fee. What was due, in addition to the filing fee, was the search fee ($255.00), the examination fee ($105.00), a surcharge for the late filing of the oath/declaration ($65.00). The Office also charged $40.00 for an undetermined claims fee, and subtracted the previously charged $180.00 undetermined claims fee. Applicant is advised to refer to the current and future fee schedule posted on our web site at www.uspto.gov, and Applicant should also note that the new fee schedule will take effect in October, 2008.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Deek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 14 2008

OFFICE OF PETITIONS

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

In re Application of Kosiedowski et al. :
Application No. 11/895,112 : Decision on Petition
Filing Date: August 23, 2007 :
Attorney Docket No. MTU 124 :

This is a decision in response to the petition filed September 13, 2007, requesting the application be accorded a filing date of August 23, 2007.

The petition is **granted**.

The application was filed August 23, 2007.

The Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" on September 5, 2007. The Notice stated the application papers did not include a specification, claims, or declaration. The Notice stated a filing date would be accorded upon submission of a specification and at least one claim.

Petitioner alleges the application papers included a specification, claims, or declaration.

The USPTO file for this application does not includes any pages of specification. However, petitioner has submitted a postcard receipt acknowledging receipt of "Specification including 18 pages spec., 10 claims, 7 drawing" on August 23, 2007.[1] Therefore, the Office is persuaded a specification, including claims, was part of the originally filed application but was later misplaced by the Office.

The Notice mailed September 5, 2007, was sent in error and is hereby vacated.

The petition fee of $400 will be credited back to petitioner's deposit account.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Office of Patent Application Processing will be informed of the instant decision will process the application with a filing date of August 23, 2007, using the papers filed on August 23, 2007, and the 18 pages of specification, including 2 pages of claims and 1 page of abstract, filed September 13, 2007.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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.

DENTSPLY INTERNATIONAL INC
570 WEST COLLEGE AVENUE
YORK PA 17404

MAILED

AUG 03 2009

OFFICE OF PETITIONS

In re Application of :
Dann Schwartz :
Application No. 11/895,133 : DECISION ON PETITION
Filed: August 23, 2007 : PURSUANT TO
Attorney Docket No.: RAIN-23 : 37 C.F.R. § 1.137(B)
Title: THERMOFORMED DENTAL :
APPLIANCE FROM MULTIPLE PLY
SHEET

This is a decision on the petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on June 2, 2009.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed September 11, 2007, which set a shortened statutory period for reply of two months, and indicated that an abstract, an oath or declaration, and the surcharge that is associated with the late submission of an oath or declaration would be required.

Both a declaration and the surcharge that is associated with the late submission of an oath or declaration were received on February 13, 2008, along with a three-month extension of time to make timely the submission.[1] A notice of incomplete reply was mailed on March 3, 2008, which did not extend the period of time that had been set by the first notice, and indicated that the abstract was required.

1 The submission contains a certificate of mailing dated February 11, 2008.

No response to the second notice was received, and no additional extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 12, 2008. A notice of abandonment was mailed on May 30, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further submitted an abstract.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to any failure of that

2 See Rule 1.137(d).

change in status should be directed to OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.

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.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Goodman Law Center
348 Mill Street
Reno, NV 89501

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JAN 21 2010

OFFICE OF PETITIONS

In re Application of :
Joseph Eberle, et. al. :
Application No. 11/895,159 : DECISION ON PETITION
Filed: August 22, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. EBERLE 2007 P-001 : 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 **DISMISSED**.

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.

Petitioner states, "The applicant's passport shows that he was born in 1937". However, it should be noted that applicant's passport is not signed[1]. Therefore, the passport cannot be accepted as evidence that applicant is 65 years or older.

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

[1] It should be noted that the passport is "NOT VALID UNTIL SIGNED".

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).

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, and documentation to this number should be addressed to the Office of Petitions.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.102(c)(1).

The application is being forwarded to Technology Center Art Unit 2617 for action in its regular course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills, CA 91367

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JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Jonathan E.M. Alston-Hughes :
Application No. 11/895,171 : ON PETITION
Filed: August 23, 2007 :
Attorney Docket No. 1364-102.US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2008, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record shows the oath and declaration and drawings filed on November 14, 2007 (according to the certificate of mailing) was filed within the extendable time period of the Notice to File Missing Parts of Nonprovisional Application, mailed on September 14 2007. Since this application is not considered abandoned, the petition is unnecessary.

The application is being referred to the Office of Patent Application Processing.

Petitioner should note that the petition fee of $770 will be refunded by check.

Telephone inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

MAIL

JUL 17 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Pedro V. Sander *et al* :
Serial No.: 11/895,179 :
Filed: August 22, 2007 : DECISION ON PETITION
For: **MULTI-CHART GEOMETRY IMAGES** : *ACCEPTANCE OF COLOR DRAWINGS*

This is a decision on the petition under 37 CFR §1.184(a)(2), filed August 23, 2007 and refiled April 10, 2009, requesting acceptance of color drawings.

The petition requests that the color drawings identified in FIGS. 1A-1C, 4A-4B, 6A-6B, 7A-7C, 9, 10A-10B, 11A-11B, 12A-12C, 14A-14D, 15A-15C, 16A-16B, 18A-18D, 19, 20, 21, and 22A-22C 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.

Doris To
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

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Pedro V. Sander	: DECISION ON REQUEST FOR
Patent Number	: 7586488	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/895,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **82** 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.

Notice of References Cited	Application/Control No. 11/895,190	Applicant(s)/Patent Under Reexamination NAYAR ET AL.	
	Examiner DEVONA E. FAULK	Art Unit 2614	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,820,011	10-1998	Ito et al.	228/1.1
*	B	US-5,529,816	06-1996	Sartini et al.	427/600
*	C	US-7,297,238	11-2007	Nayar et al.	204/157.62
*	D	US-5,590,866	01-1997	Cunningham, Patrick M.	248/638
*	E	US-5,096,532	03-1992	Neuwirth et al.	156/580.1
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
*	U	Applicant's admitted prior art, page 1, line 8-page 3, line 17 No date available
*	V	Ohsawa, Yoshiaki et al. Effects of Ultrasonic Vibration on Solidification Structures of Cast Iron. IMono. Vol. 67, Issue No. 5, 1995, pp. 325-337
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Notice of References Cited	Application/Control No. 11/895,190	Applicant(s)/Patent Under Reexamination NAYAR ET AL.	
	Examiner DEVONA E. FAULK	Art Unit 2615	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,820,011	10-1998	Ito et al.	228/1.1
*	B	US-5,529,816	06-1996	Sartini et al.	427/600
*	C	US-7,297,238	11-2007	Nayar et al.	204/157.62
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	JP 10211589 A	08-1998	Japan	SATO et al.	B23K 20/10
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
*	U	Applicant's admitted prior art, page 1, line 8-page 3, line 17 No date available
*	V	Ohsawa, Yoshiaki et al. Effects of Ultrasonic Vibration on Solidification Structures of Cast Iron. IMono. Vol. 67, Issue No. 5, 1995, pp. 325-33-
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Notice of References Cited	Application/Control No. 11/895,190	Applicant(s)/Patent Under Reexamination NAYAR ET AL.	
	Examiner DEVONA E. FAULK	Art Unit 2615	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,820,011	10-1998	Ito et al.	228/1.1
*	B	US-5,529,816	06-1996	Sartini et al.	427/600
*	C	US-7,297,238	11-2007	Nayar et al.	204/157.62
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
*	U	Applicant's admitted prior art, page 1, line 8-page 3, line 17 No date available
*	V	Ohsawa, Yoshiaki et al. Effects of Ultrasonic Vibration on Solidification Structures of Cast Iron. IMono. Vol. 67, Issue No. 5, 1995, pp. 325-330
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY CA 92708

MAY 23 2008

In re Application of: LUK
Serial No.: 11/895,201
Filed: August 23, 2007
Title: FOOD PREPARATION SINK TRASH INTERCEPTOR 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 April 21, 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.

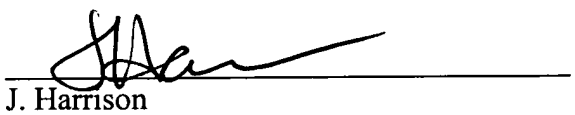
As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice.

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. Notably, special status based upon categories such as conservation of energy resources are no longer available. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM R. SILVERIO
SUTHERLAND, ASBILL & BRENNAN, LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309-3996

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Herman A. Bellagamba, et al. :
Application No. 11/895,211 : DECISION ON PETITION
Filed: August 23, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 07124 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 declaration statement signed by applicant Herman A. Bellagamba. 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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MERONI & MERONI, P.C.
P.O. BOX 309
BARRINGTON, IL 60011

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Herman A. Bellagamba, et al. :
Application No. 11/895,211 : DECISION ON PETITION
Filed: August 23, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 07124 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 declaration statement signed by applicant Herman A. Bellagamba. 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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14 OCT 2009

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TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E.
SUITE 5200
ATLANTA GA 30308-2216

In re Application of	:	
UME, et al.	:	
PCT No.: PCT/US05/40495	:	DECISION ON PETITION
Application No.: 11/895,217	:	
Int. Filing Date: 07 November 2005	:	UNDER 37 CFR 1.137(b)
Priority Date: 20 December 2004	:	
Atty. Docket No.: GTRC3348	:	
For: ULTRASOUND SYSTEM AND METHOD FOR MEASURING WELD PENETRATION DEPTH IN REAL TIME AND OFF LINE	:	

This decision is in response to applicant's petition under 37 CFR § 1.137(b) filed 23 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 November 2005, applicant filed international application PCT/US05/40495 which claimed priority to an earlier application filed 20 December 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 June 2007.

On 23 August 2007, applicant filed the present petition to revive under 37 CFR 1.137(b) accompanied by the filing of a utility application under 35 U.S.C. 111(a) utilizing transmittal letter form PTO/SB/05.

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).

Applicant has satisfied items (2) and (3). It is noted that item (4) does not apply to the present application.

Regarding item (1), applicant did not file a U.S. National stage application under 35 U.S.C. 371 but rather a utility application under 35 U.S.C. 111(a). This reply is not proper. Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). (See 37 CFR 1.495(g)). In addition, section 1893.03(a) of the MPEP states that "[i]f there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)."

The required reply was payment of the full, U.S. basic national fee or the filing of a continuation application. Neither reply was filed, as such, it is not possible to grant applicant's petition at this time.

It is noted that the present application has been processed as a regular, utility application under 35 U.S.C. 111(a). Applicant is directed to 37 CFR 1.78 for information on filing a petition for acceptance of an unintentionally delayed claim of priority.

CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED**.

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 1.137(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter 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.

/DAP/

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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10 MAR 2010

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Troutman Sanders LLP
5200 Bank of America Plaza
600 Peachtree Street, N.E.
Suite 5200
Atlanta, GA 30308-2216

In re Application of :
UME et al. :
Application No.: 11/895,217 :
Filed: August 23, 2007 : DECISION ON PETITION
Attorney Docket No.: GTRC3348 :
For: ULTRASOUND SYSTEMS AND METHOD FOR MEASURING WELD PENETRATION DEPTH IN REAL TIME AND OFF LINE :

This decision is issued in response to the "Renewed Petition under 37 CFR 1.137(b) & Rule 78 Petition for Acceptance of an Unintentionally Delayed Priority Claim" filed November 10, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed November 10, 2009.

BACKGROUND

The procedural background for this application was set forth in the decision mailed herein on October 14, 2009. That decision dismissed applicant's petition for revival of international application PCT/US2005/040495 for failure to satisfy all the requirements for a grantable petition. Specifically, the present application was held not to be a proper continuation of the international application, so that the filing of the present application could not be accepted as the "required reply" necessary for a grantable petition.

On November 10, 2009, applicant filed "Renewed Petition under 37 CFR 1.137(b) & Rule 78 Petition for Acceptance of an Unintentionally Delayed Priority Claim" considered herein.

DISCUSSION

1. Petition To Accept A Delayed Claim for Priority

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted

after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those application filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed with the petition, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) applicant's statement that "the entire delay between the date specified in 1.78(a)(2)(ii) and the date of this Petition was unintentional" is construed as meaning that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(3) and 1.78(a)(6) and the date the claim was filed was unintentional." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date..

The petition under 37 CFR 1.78(a)(3) is appropriately granted.

2. Renewed Petition under 37 CFR 1.137(b)

Based on the above, the present application is now appropriately treated as a continuation of international application PCT/US2005/040495. As noted in the previous decision, pursuant to MPEP §7110.03(c), the filing of a continuation application under 35 U.S.C. 111(a) is considered an appropriate "required reply" under 37 CFR 1.137(b). Applicant has therefore now satisfied the final requirement of a grantable petition for revival of the international application.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed international application, accompanies this decision on petition.

CONCLUSION

Applicant's petition under 37 CFR 1.78(a)(3) for acceptance of the delayed claim of priority to international application PCT/US2005/040495 is GRANTED.

Applicant's renewed petition for revival of the international application under 37 CFR 1.137(b) is GRANTED.

International application PCT/US2005/040495 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the continuing application number 11/895,217.

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298.

All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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P. O. Box 309
Barrington IL 60011

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Herman A. Bellagamba et al. :
Application No. 11/895,223 : DECISION ON PETITION
Filed: August 23, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 07125 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 statement from the applicant, Herman A. Bellagamba, 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 2625 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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P.O. BOX 309
BARRINGTON, IL 60011

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
BELLAGAMBA, et al. :
Application No. 11/895,224 : DECISION ON PETITION
Filed: August 23, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **07126** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 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 the declaration of inventor Herman A. Bellagamba, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Office of Initial Patent Examination for processing and will be accorded "special" status when pre-examination is complete.

Monica A. Graves
Petitions Examiner
Office of Petitions

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MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS NY 10606

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JAN 10 2008

OFFICE OF PETITIONS

In re Application of :
GRESSIANU et al. :
Application No. 11/895,239 :
Filed: 08/23/2007 :
Atty Docket No. GRESSIANU 201 201-KFM :

DECISION ON PETITION

This is a decision on the petition filed November 5, 2007, requesting that the above-identified application be accorded a filing date of August 23, 2007, with Figures 13a-b and 14 as part of the original disclosure.

On August 23, 2007, applicants filed the above-identified application. On September 11, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of August 23, 2007, and advising applicants that Figures 13a-b and 14 appeared to have been omitted. Additionally, the notice stated that the signatures of inventors Keating and O'Keefe were missing from the declaration. On November 5, 2007, applicants submitted the present petition, the petition fee, and a declaration executed by all of the inventors. A copy of omitted Figures 13a-b and 14, which applicants alleged were filed on August 23, 2007, were not located among the papers accompanying the present petition.

The Office file is the official record of the papers originally filed in this application. A review of the official file reveals that Figures 13a-b and 14 were not located. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Initially, the Office notes that the listing of papers on an application transmittal is evidence of what an applicant intended to submit to the USPTO and not what was actually submitted. Furthermore, the Office considers the declarations by individuals involved in the preparation and mailing of the original application, reciting their personal recollections of what was contained in the application that they reviewed and/or mailed. However, such recollections are not *prima facie* evidence of receipt of the omitted items in the USPTO on filing and are no more persuasive of what was actually mailed than the contents of the official record.

The Office has a well-established and well-publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt

is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt, which itemizes and properly identifies the papers that are being filed, serves as *prima facie* evidence of receipt in the USPTO of all the items listed on the date stamped thereon by the Office. See MPEP 503. Unfortunately, applicants did not submit a returned postcard receipt with a USPTO date-stamp thereon as evidence of receipt of the omitted figures in the USPTO on August 23, 2007.

Accordingly, the petition is **dismissed**.

Any request for reconsideration should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

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

This matter is being referred to the Office of Patent Application Processing for further processing with a filing date of August 23, 2007, using only the Figures submitted on that date for filing date purposes.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Butzel Long
IP Docketing Dept.
350 South Main Street
Suite 300
Ann Arbor, MI 48104

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In re Application of :
Blake Edward Ratcliffe :
Application No. 11/895,264 : DECISION ON PETITION
Filed: August 23, 2007 :
Attorney Docket No. 136826-0009 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 Missing Parts of Non-Provisional Application (Notice), mailed September 12, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly the case became abandoned on November 13, 2007. A Notice of Abandonment was mailed on June 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the fees in the amounts of $255 for a search fee, $105 for examination fee, $155 for basic filing fee and $65 for a surcharge fee, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the fees are accepted as being unintentionally delayed.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received August 4, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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Edwin Tarver
168 Ventura Boulevard
Suite 360
Encino, A 91436

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OFFICE OF PETITIONS

In re Application of :
Niloufar Gorman et al. :
Application No. 11/895,309 :
Filed: May 24, 2007 :
Attorney Docket No. 22898-002 :

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 November 1, 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/agents associated with customer 50994. All attorneys/agents associated with customer number 50994 have been withdrawn.

All future correspondence will be mailed to the inventor.

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Niloufar Gorman
5104 Los Feliz Boulevard
Los Angeles, CA 90027

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/895,309	08/24/2007	Niloufar Gorman	22898-002

CONFIRMATION NO. 3289

POWER OF ATTORNEY NOTICE

50994
EDWIN TARVER
16830 Ventura Blvd.
SUITE 360
Encino, CA 91436

OC000000027028358

Date Mailed: 12/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/01/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199