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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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

COPY MAILED

DEC 15 2008

OFFICE OF PETITIONS

In re Application of :
Sanghvi, et al. :
Application No. 11/940,545 : DECISION
Filed/Deposited: 15 November, 2007 :
Attorney Docket No. MS1-3498US :

This is a decision on the petition filed on 29 September, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

As is discussed below, the question herein is whether Petitioner replied timely to Notice of Missing Parts—and, as will be seen, the answer is that Petitioner did not.

BACKGROUND

The record reflects as follows:

Following Petitioner's deposit of the instant application on 15 November, 2007, on 12 December, 2007, the Office mailed the Notice to File Corrected Application Papers (replacement drawings (37 C.F.R. §1.84, §1.121)), with a Notice of Omitted Items (as to FIG. 9D) included therein (copy enclosed) (the 12 December, 2007, Notice) with reply due absent extension of time on or before 12 February, 2008.

On 12 May, 2008, Petitioner submitted, *inter alia*, a request and fee for extension of time and a specification and preliminary amendment, however, Petitioner does not appear to have addressed completely the issue of the omitted FIG. 9D by petition and/or amendment (marked up and clean copy) as required in the 12 December, 2007, Notice.

On 23 May, 2008, the Office mailed a Notice of Incomplete Reply (copy enclosed), and the reply date remained as originally set forth.

The application went abandoned by operation of law after midnight 12 May, 2008.

The Office mailed the Notice of Abandonment on 26 August, 2008.

On 29 September, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment that a timely reply was submitted, and in support of the averment Petitioner provides copies of papers said to have been submitted to the Office and receipts therefor. Notably Petitioner does not address completely the issue of an amendment (marked up and clean copy) with drawing and/or petition in that regard, and neither avers timely submission nor provides copies of the required submissions. (Nor does Petitioner address completely the Notice of Incomplete Reply.)

The discussion at MPEP 711.03(c)(I) 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]
>
> ***

While Petitioner may have submitted a reply, by Petitioner's own presentation of the nature and scope of the reply it clearly was incomplete.

Petitioner's problem, thus, is that Petitioner failed to reply timely and properly to the 12 December, 2007, Notice to File Corrected Application Papers—which is the reason that the Office mailed the Notice of Incomplete Reply on 23 May, 2008, and Notice of Abandonment on 20 October, 2008.

Thus, it appears Petitioner has not made the showing required herein.

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

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[1] *See*: MPEP §711.03(c) (I)(B).

complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for

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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).

the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/940,545	11/15/2007	Ashvinkumar J. Sanghvi	MS1-3498US

CONFIRMATION NO. 7972

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

FORMALITIES LETTER

Date Mailed: 12/12/2007

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:
  - The drawings submitted to the Office are not electronically reproducible because portions of figures 5A-13 are missing and/or blurry.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **9D** described in the specification.

I. Petition for date of deposit: Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**

II. Petition for later filing date: Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $400.00 petition fee *(37 CFR 1.17(f))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**
Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(f)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. Acceptance of application as deposited: Applicant may accept the application as deposited in the USPTO by filing an appropriate amendment as set forth in either (A) or (B) below within **TWO MONTHS** of the date of this

Notice. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b)** . The application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

(A) If applicant wants to accept the application as deposited without adding the subject matter that was in the omitted item (e.g., a missing page or figure), applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):

1. For a missing page of the specification, a substitute specification including claims that amends the specification to renumber the pages consecutively and cancels any incomplete sentences, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
2. For a missing figure of the drawings, replacement drawing sheets in compliance with 37 CFR 1.121(d) to renumber the drawing figures consecutively (if necessary), a substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s) and corrects the references in the specification to the drawing figures to correspond with any relabeled drawing figures, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
3. For a missing page of the claim listing only, a replacement claim listing with the claims renumbered consecutively or, if amendment to the claims is also necessary, then a complete claim listing in compliance with 37 CFR 1.121(c);
4. For a missing or unreadable compact disc, a substitute specification (excluding the claims) deleting the reference to the compact disc and the files contained on the compact disc, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125; and
5. For a missing or unreadable file submitted on a compact disc, (a) a substitute specification (excluding the claims) deleting the reference to the missing or unreadable file, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125; and (b) a replacement transmittal letter listing all of the files except the missing or unreadable file in compliance with 37 CFR 1.52(e)(3)(ii).

(B) Alternatively, if applicant wants to accept the application as deposited but wishes to add the subject matter in the omitted item (e.g., a missing page or figure) by relying on an incorporation by reference under 37 CFR 1.57 or other portions of the original disclosure, applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):

1. To add the subject matter in a missing page of specification, a substitute specification excluding claims and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
2. To add a missing figure of the drawings, new and replacement drawing sheets in compliance with 37 CFR 1.121(d);
3. To add the subject matter in a missing page of the claim listing, a complete claim listing in compliance with 37 CFR 1.121(c) (e.g., a claim in the missing page should be submitted as a new claim);
4. To add the subject matter in a missing or unreadable compact disc, (a) a replacement compact disc and a duplicate copy of the compact disc, in compliance with 37 CFR 1.52(e); and (b) a statement that the replacement compact disc contains no new matter in compliance with 37 CFR 1.52(e)(4); and,
5. To add the subject matter in a missing or unreadable file submitted on a compact disc, (a) a replacement compact disc that contains all of the files listed in the specification including the missing or unreadable file and a duplicate copy of the compact disc, in compliance with 37 CFR 1.52(e); and (b) a statement that the replacement compact disc contains no new matter in compliance with 37 CFR 1.52(e)(4).

If applicant is relying on an incorporation by reference under 37 CFR 1.57 to add the omitted subject matter, then applicant must also comply with the requirements of 37 CFR 1.57.

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.

/tlc/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/940,545	11/15/2007	Ashvinkumar J. Sanghvi	MS1-3498US

CONFIRMATION NO. 7972

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

FORMALITIES LETTER

OC000000030053043

Date Mailed: 05/23/2008

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 05/12/2008 to the Notice to File Missing Parts (Notice) mailed 12/12/2007 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Items Required to Avoid Abandonment:

The required items noted below SHOULD be filed along with any items required above. The filing date of this nonprovisional application will be the date of receipt of the items required above.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **9D** described in the specification.

I. Petition for date of deposit: Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $400.00 petition fee *(37 CFR 1.17(f))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**

II. Petition for later filing date: Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the $400.00 petition fee *(37 CFR 1.17(f))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).**
Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(f)). To avoid processing delays and payment of a

surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. **Acceptance of application as deposited:** Applicant may accept the application as deposited in the USPTO by filing an appropriate amendment as set forth in either (A) or (B) below within **TWO MONTHS** of the date of this Notice. **THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b)** . The application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

(A) If applicant wants to accept the application as deposited without adding the subject matter that was in the omitted item (e.g., a missing page or figure), applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):

1. For a missing page of the specification, a substitute specification including claims that amends the specification to renumber the pages consecutively and cancels any incomplete sentences, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
2. For a missing figure of the drawings, replacement drawing sheets in compliance with 37 CFR 1.121(d) to renumber the drawing figures consecutively (if necessary), a substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s) and corrects the references in the specification to the drawing figures to correspond with any relabeled drawing figures, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
3. For a missing page of the claim listing only, a replacement claim listing with the claims renumbered consecutively or, if amendment to the claims is also necessary, then a complete claim listing in compliance with 37 CFR 1.121(c);
4. For a missing or unreadable compact disc, a substitute specification (excluding the claims) deleting the reference to the compact disc and the files contained on the compact disc, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125; and
5. For a missing or unreadable file submitted on a compact disc, (a) a substitute specification (excluding the claims) deleting the reference to the missing or unreadable file, and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125; and (b) a replacement transmittal letter listing all of the files except the missing or unreadable file in compliance with 37 CFR 1.52(e)(3)(ii).

(B) Alternatively, if applicant wants to accept the application as deposited but wishes to add the subject matter in the omitted item (e.g., a missing page or figure) by relying on an incorporation by reference under 37 CFR 1.57 or other portions of the original disclosure, applicant is required to submit one or more of the following items without adding any new matter (see 35 U.S.C. 132(a)):

1. To add the subject matter in a missing page of specification, a substitute specification excluding claims and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125;
2. To add a missing figure of the drawings, new and replacement drawing sheets in compliance with 37 CFR 1.121(d);
3. To add the subject matter in a missing page of the claim listing, a complete claim listing in compliance with 37 CFR 1.121(c) (e.g., a claim in the missing page should be submitted as a new claim);
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5. To add the subject matter in a missing or unreadable file submitted on a compact disc, (a) a replacement compact disc that contains all of the files listed in the specification including the missing or unreadable file and a duplicate copy of the compact disc, in compliance with 37 CFR 1.52(e); and (b) a statement that the replacement compact disc contains no new matter in compliance with 37 CFR 1.52(e)(4).

If applicant is relying on an incorporation by reference under 37 CFR 1.57 to add the omitted subject matter, then applicant must also comply with the requirements of 37 CFR 1.57. —

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.

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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.

/rrobel/

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

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COPY MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Sanghvi, et al. :
Application No. 11/940,545 : DECISION
Filed/Deposited: 15 November, 2007 :
Attorney Docket No. MS1-3498US :

This is a decision on the petition filed on 5 February, 2009, considered (in light of the record and additional presentments by Petitioner) as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and filed as a petition to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.181 is **GRANTED**; the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

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.

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. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Following Petitioner's deposit of the instant application on 15 November, 2007, on 12 December, 2007, the Office mailed the Notice to File Corrected Application Papers (replacement drawings (37 C.F.R. §1.84, §1.121)), with a Notice of Omitted Items (as to FIG. 9D) included therein (copy enclosed) (the 12 December, 2007, Notice) with reply due absent extension of time on or before 12 February, 2008.

On 12 May, 2008, Petitioner submitted, *inter alia*, a request and fee for extension of time and a specification and preliminary amendment, however, Petitioner did not appear to have addressed completely the 12 December, 2007, Notice.

The application went abandoned by operation of law after midnight 12 May, 2008.

On 23 May, 2008, the Office mailed a Notice of Incomplete Reply, and the reply date remained as originally set forth.

Petitioner submitted additional papers on 12 June, 2008.

The Office mailed the Notice of Abandonment on 26 August, 2008.

On 29 September, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and with a suggestion of timely reply with some copies of papers said to have been submitted to the Office and receipts therefor. Petitioner's submission on petition appeared incomplete, and did not appear to demonstrate timely submission consistent with the guidance in the Commentary at MPEP 711.03(c)(I). Because it appeared that Petitioner failed to reply timely and properly to the 12 December, 2007, Notice to File Corrected Application Papers (for which the Office mailed the Notice of Incomplete Reply on 23 May, 2008, and Notice of Abandonment on 20 October, 2008), the petition was dismissed on 15 December, 2008.

On 5 February, 2009, Petitioner re-advanced his earlier petition pursuant to 37 C.F.R. §1.181, with an additional petition (with fee) pursuant to 37 C.F.R. §1.137(b) and averred unintentional delay. Petitioner made 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]

***

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]

---

[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).

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

As to Allegations of Unintentional Delay

It appears that the petition pursuant to 37 C.F.R. §1.137(b) is moot.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted** and the 26 August, 2008, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**, the fee is waived and it does not appear that it was charged. Should Petitioner later find that the fee was charged, Petitioner should request a refund from the Office of Finance and submit a copy of this decision with the request

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 the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP 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[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.

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
ADAMS, Ronald D. :
Application No. 11/940,561 : DECISION ON PETITION
Filed: November 15, 2007 : TO WITHDRAW
Attorney Docket No. **10121/00703 (00-0282US3)** : FROM RECORD
:

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 09, 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 cannot be approved because the signature on the Request to Withdraw as attorney does not have an original signature. All correspondence filed in the Office should be an original document and must include an original signature. It appears that the top of the petition is original; however the bottom of the petition appears to have a copied signature, which is not permitted by the USPTO. Since the petition is half original and half copied it does not appear that an original could have been retained as set forth in 37 CFR 1.4 below.

§ 1.4 Nature of correspondence and signature requirements.

(d)(1)*Handwritten signature.* Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

(i)Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii)Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

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

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Alexandria, VA 22313-1450
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MATTHEW R. JENKINS, ESQ.
2310 FAR HILLS BUILDING
DAYTON OH 45419

COPY MAILED
FEB 01 2010

In re Application of	:	
Benoist FLEURY	:	
Application No. 11/940,614	:	DECISION ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. VAL 293 P2 - BFR 0491	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 18, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of December 18, 2008 is accepted has being unintentionally delayed.

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

This application is being referred to Technology Center AU 2884 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Hannes Breitschadel	:	DECISION ON PETITION
Application No. 11/940,617	:	TO WITHDRAW
Filed: November 15, 2007	:	FROM RECORD
Attorney Docket No. P07046US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

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

A review of the file record indicates that on July 6, 2009 the power of attorney to Brinks Hoffer Gilson & Lione 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: The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granada Hills CA 91344

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FEB 0 6 2008

WHYTE HIRSCHBOECK DUDEK S C
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE WI 53202

In re Application of	:	
Liam McElroy et. al.	:	DECISION ON REQUEST TO
Application No. 11940619	:	PARTICIPATE IN PATENT
Filed: November 15, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. BOU-34916	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 20, 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 UKIPO;
(2) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the UKIPO application(s);
(3) Examination of the U.S. application has not begun;
(4) Applicant must submit a copy of all the office actions from each of the UKIPO application(s) containing the allowable/patentable claim(s) that are the basis for the request.
(5) 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
(6) The required petition fee under 37 CFR 1.17(h).

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

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

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

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

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

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.
11/940,642	11/15/2007	John E. Barth JR.	BUR920070115US1	8150

46428 7590 01/10/2008

CANTOR COLBURN LLP-IBM BURLINGTON
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

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

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

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20 Church Street
22nd Floor
Hartford CT 06103

JAN 10 2008

In re Application of:
BARTH *et al.*
Serial No.: 11/940,642
Filed: November 15, 2007
Title: **LOW OVERHEAD SWITCHED HEADER POWER SAVINGS APPARATUS**

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

This is a decision on the petition filed on November 15, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

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

Regarding the requirements of II. 5.2, the pre-examination search must be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation Some features of the claimed invention appear to be absent form the search logic provided. For the above reasons, the petition does not meet the requirements of II. 5.2, as set forth above.

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

DECISION

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

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

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

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Clayton E. LaBalle
Special Program Examiner
Technology Center 2800

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/940,642	11/15/2007	John E. Barth JR.	BUR920070115US1	8150

46428 7590 03/31/2008

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20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
ART UNIT	PAPER NUMBER
2827	

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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20 Church Street, 22nd Floor
Hartford, CT 06103

APR - 1 2008

In re Application of:
BARTH *et al.*
Serial No.: 11/940,642
Filed: November 15, 2007
Title: **LOW OVERHEAD SWITCHED HEADER POWER SAVINGS APPARATUS**

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

This communication is a reply to the petition filed January 23, 2008. The petition is being treated as a petition requesting reconsideration of the previous decision of January 10, 2008, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed November 15, 2007.

The petition to make the application special is GRANTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

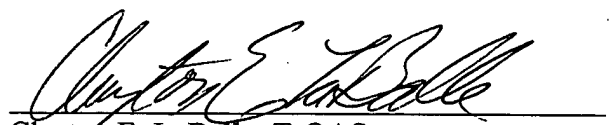
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

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



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

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Paper No.

BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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MAR 02 2010

OFFICE OF PETITIONS

In re Application of :
Krausz et al. : DECISION ON PETITION
Application No. 11/940,658 :
Filed: November 15, 2007 :
Atty Docket No. 40787.101 :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY; REQUEST TO WITHDRAW PREVIOUSLY-FILED PETITION; AND RESPONSE TO NOTICE TO FILE MISSING PARTS OF NON-PROVISIONAL APPLICATION" filed February 5, 2009. This decision also responds to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed January 30, 2009.

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

The above-identified application became abandoned for failure to file a reply to the Notice to File Missing Parts of Application mailed December 10, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice, with extensions of time under the provisions of 37 CFR 1.136(a) obtainable. No reply received and no extension of time obtained, the above-identified application became abandoned on February 11, 2008. A courtesy Notice of Abandonment was mailed on August 22, 2008.

Applicant has satisfied the requirements of 37 CFR 1.137(b). The petition includes the required reply in the form of an executed declaration[1] and late surcharge; the petition fee; and the required statement of unintentional delay.

It is noted that the statement of unintentional delay was made by practitioner Jacob Erlich, who was appointed after the

[1] It is noted that an Application Data Sheet containing the mailing address and /or residence address for the inventors was submitted on filing of the application. Thus, the declaration is acceptable without this information.

abandonment of the application. Thus, it does not appear that the practitioner 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.

Since this petition was granted under 37 CFR 1.137(b), consideration of the petition under 37 CFR 1.137(a) is unnecessary. As such, the fee for such consideration is being refunded to the Deposit Account, as authorized.

Receipt of the power of attorney and change of correspondence address filed February 5, 2009 is acknowledged and made of record.

The application is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the response (executed declaration) submitted on petition filed February 5, 2009.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

BRUNDIDGE & STANGER, P.C.
2318 MILL ROAD, SUITE 1020
ALEXANDRIA, VA 22314

In re Patent No. 7,528,605 :
Issue Date: May 5 2009 :
Application No. 11/940,668 : ON PETITION
Filed: November 15, 2007 :
Attorney Docket No.: ISO-6074 :

This is a decision in response to the communication, filed July 9, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted; however, the communication was recently referred to the Office of Petitions for consideration.

The request is **GRANTED**. The $130 fee required under 37 CFR 1.17(i) is being charged to counsel's deposit account, as authorized.

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.

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

Mail Date: 07/14/2010

Applicant	: Cetin Kaya	: DECISION ON REQUEST FOR
Patent Number	: 7649414	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/940,691	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **43** 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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10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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OFFICE OF PETITIONS

In re Application of

LI, Limin et al.
Application No. 11/940,714
Filed: November 15, 2007
Attorney Docket No. **FUNC-0032-UT1**

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, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that boxes to withdraw the practitioners were not check.

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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CANTOR COLBURN, LLP - IBM ARC DIVISION
55 GRIFFIN ROAD SOUTH
BLOOMFILED CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Mahmood et al.	:	
Application No. 11/940,739	:	ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. ARC920070039US1	:	

This is a decision on the petition under 37 CFR 1.182, filed November 27, 2007, 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. Tanveer F. MAHMOOD
2. Peter J. HAAS
3. John M. LAKE
4. Guy M. LOHMAN

This matter is now being referred to Technology Center AU 2129 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to Technology Center 2100

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/940,739	11/15/2007	2129	1030	ARC920070039US1	5	1

CONFIRMATION NO. 8335

67232
CANTOR COLBURN, LLP - IBM ARC DIVISION
55 GRIFFIN ROAD SOUTH
BLOOMFILED, CT 06002

CORRECTED FILING RECEIPT

OC000000027056265

Date Mailed: 12/03/2007

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

Applicant(s)

Tanveer F. Mahmood, Cupertino, CA;
Peter J. Haas, San Jose, CA;
John M. Lake, Cary, NC;
Guy M. Lohman, San Jose, CA;

Assignment For Published Patent Application

INTERNATIONAL BUSINESS MACHINES CORPORATION, Armonk, NY

Power of Attorney: The patent practitioners associated with Customer Number 67232

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/940,739**

Projected Publication Date: 05/21/2009

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR DATA CLASSIFICATION BY KERNEL DENSITY SHAPE INTERPOLATION OF CLUSTERS

Preliminary Class

706

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.
11/940,739	11/15/2007	Tanveer F. Mahmood	ARC920070039US1	8335

67232 7590 02/14/2008

CANTOR COLBURN, LLP - IBM ARC DIVISION
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
BUSS, BENJAMIN J	
ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
02/14/2008	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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22nd Floor
Hartford CT 06103

In re Application of:
Tanveer F. Mahmood et al.
Serial No.: 11/940,739
Filed: November 15, 2007
Docket: ARC920070039US1
Title: METHOD AND SYSTEM FOR DATA CLASSIFICATION BY KERNEL DENSITY SHAPE INTERPOLATION OF CLUSTERS

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

This is a decision on the petition filed on November 15, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II5.3, II.6.1, II 6.2, II.6.4, II6.5 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.1, 5.2, II. 6.2 and II.6.3 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items II.5 and 5.1 above, the preexamination search does not include a classified search in class 706, subclass 62, where this application is classified and references more pertinent than those already identified appear likely to be found. Petitioner is required to perform a search in this area or provide justification with reasonable certainty why no references more pertinent than those already identified are likely to be found in the above class and subclass.

Regarding item 5.2 above, the preexamination search must be directed to the (instant) claimed invention and encompass ***all of the features of the claims***, giving the claims the broadest reasonable interpretation. However, claim limitations some of which have been identified as patentable features distinguishing the claimed invention from the cited prior art (such as "set of grid points sampled..at a specified resolution", "identify a maximum density estimate value" as recited in claim 1; "two-stage clustering method" as recited in claim 2 ; "merging..clusters" and '"removing...clusters" as recited in claim 4 and "classifying a new data point" as recited in claim 5) or any search terms covering these limitations do not appear to have been included in the search. Petitioner should review all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the search covers these concepts, and update the search and/or provide any clarifications if deemed necessary .

Regarding item 6.2 above, the Accelerated Examination Support Document (AESD) does not provide 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, as required. For each of the references discussed in section 9(B) of the AESD, petitioner has listed features disclosed in the documents without specifically identifying the specific limitation in the claim believed to correspond to each disclosed feature. The discussion thus amounts to only pointing out pertinent sections of the references without specifically pointing out which claim limitations are believed to correspond to these sections within each reference. Petitioner is advised to use language recited in the claims to identify each claim limitation disclosed by each reference, mapping each claim limitation to the corresponding disclosure within each reference. Correction is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the

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

references cited or the objections made." While petitioner discusses why none of the references listed in section 9(A) of the support document anticipates any of these claims, the support document does not provide any explanation why the instant claims would not be obvious in view of the combined teachings and the state of the art disclosed by the references listed in section 9(A) of the Accelerated Examination support Document. In addition, the Detailed Explanation of patentability provided in section 9(C) asserts that at least dependent claims 2, 4 and 5 include limitations that would define over the references if claim 1 was found to be unpatentable, but does not clearly point out the specific claim language that would define over the references as asserted. Clarification is required.

DECISION

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned by telephone are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571) 272-4210.

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/940,739	11/15/2007	Tanveer F. Mahmood	ARC920070039US1	8335

67232 7590 05/01/2008

CANTOR COLBURN, LLP - IBM ARC DIVISION
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
BUSS, BENJAMIN J	

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
05/01/2008	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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In re Application of:
Tanveer F. Mahmood et al.
Serial No.: 11/940,739
Filed: November 15, 2007
Docket: ARC920070039US1
Title: METHOD AND SYSTEM FOR DATA CLASSIFICATION BY KERNEL DENSITY SHAPE INTERPOLATION OF CLUSTERS

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

This is a decision on the renewed petition filed on March 14, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d), and the Supplemental IDS filed April 25, 2008.
The original petition, submitted on November 15, 2007 was dismissed in the decision mailed on February 14, 2008.

The petition to make the application special is GRANTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

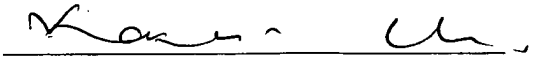
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned by telephone are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571) 272-4210.



Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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.
11/940,750	11/15/2007	Yaakov Yaari	IL920070053US1 (21396)	8361

48233 7590 12/17/2007

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
AN, MENG AI T	

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
12/17/2007	PAPER

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

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

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Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300.
Garden City, New York 11530

In re Application of:
Yaari, Yaakov
Serial No.: 11/940,750
Filed: November 15, 2007
Docket: IL920070053US1 (21396)

For: METHOD FOR VALIDATION OF BINARY CODE TRANSFORMATIONS

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

This is a decision on the petition filed on November 15, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches,

the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions of I1-4 and II 1-6 above have been met. The petition to make the application special is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any inquiry regarding this decision should be directed Gail Hayes, Quality Assurance Specialist, at (571) 272-3591.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

MAILED

JUN 08 2010

OFFICE OF PETITIONS

In re Application of :
David M. Shaw :
Application No. 11/940,763 : ON PETITION
Filed: November 15, 2007 :
Attorney Docket No. AKAM-019C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 19, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 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 Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2441for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

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RAMAN N. DEWAN
JACKSON WALKER, L.L.P.
100 CONGRESS AVENUE
SUITE 1100
AUSTIN TX 78701

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FEB 28 2008

In re Application of :
Li, Ghosal, Ou, and Savoor :
Application No.: 11/940,768 : DECISION ACCORDING
Filed: November 15, 2007 : RULE 47(a) STATUS
Attorney Docket No: 130332.00213 :
For: **DETECTING DISTRIBUTION OF MULTIMEDIA CONTENT**

This is in response to the petition under 37 CFR 1.47(a), filed February 6, 2008.

The petition is **GRANTED**.

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

The above-cited application was filed on November 15, 2007, without a properly executed declaration. On December 6, 2007, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration, and surcharge. The instant petition was filed responsively on February 6, 2008.

Petitioner has shown that inventor Ou has constructively refused to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be directed to the Office of Patent Application Processing for further review.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of
Napoleone Ferrara et al.
Application No. 11/940,770
Filed: November 15, 2007
Attorney Docket No: P 1122P2D4C2

ON PETITION

This is a decision on the request, filed March 30, 2010, to accept an extension of time and on the Petition to Revive the above identified application under 37 CFR 1.137(b). [1]

The request for an extension of time is noted.
The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

In response to the Final Office Action mailed October 23,2009, a continuation application, application no. 12/730,034 was filed March 23, 2010. At the time, however, the instant application and the continuation application were not co-pending because the period for response to the Final Office Action expired on January 23, 2010.

However, the three month extension of time filed March 30, 2010 pursuant to 37 CFR 1.136 extends the response period to April 23, 2010. In view thereof, the instant application is not abandoned and thus there is no need to treat the petition under 37 CFR 1.137(b).

---

[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)).

This matter is being referred to Technology Center 1647 for processing of the continuation application filed March 23, 2010.

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

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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JAN 29 2010

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of	:	
Alois JUNGBAUER, et al	:	
Application No. 11/940,786	:	DECISION ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. SONN:116US/10716449	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 30, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 31, 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.

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

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
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SUITE 3400
CHICAGO IL 60661

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JUN 09 2009

OFFICE OF PETITIONS

Applicants: Plowman, et al.
Appl. No.: 11/940,788
Filing Date: November, 15 2007
Title: METHOD AND SYSTEM FOR INSERTING SOFTWARE PROCESSING IN A HARDWARE IMAGE SENSOR PIPELINE
Attorney Docket No.: 18637US02
Pub. No.: 2008/0292132 A1
Pub. Date: November 27, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 27, 2009, for the above-identified application.

The request is granted.

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

It would greatly benefit the Office if Applicant did not submit amended drawing sheets, which were labeled 1/3, 2/3 and 3/3 in large, bold type at the top of the pages when the amended sheets did not include all of the figures as indicated in the remarks section of Applicants response.

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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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

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JUL 11 2008

In re Application of :
Alberti, et al. : ON PETITION
Application No.: 11/940,814 :
Filed: November 15, 2007 :
Attorney Docket No.: 066042-9683-04 :

This is a decision on the petition under 37 CFR 1.47(a), filed February 21, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200.00, and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), applicants have failed to establish that the non-signing inventor, Mr. Jordan, has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either a clear refusal to join, whether expressly or by conduct, or a showing of diligence in trying to find an unavailable inventor.

It appears that Mr. Jordan was not provided with a copy of the application. The Office requires that petitioners mail a complete copy of the application and declaration to Mr. Jordan's 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. Jordan's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct.

If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, Internet or telephone directory searches, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. 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.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains a noninitialed, nondated alteration to information for Inventor Scott. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Fortunately, the deficiency/inaccuracy relates to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Inventor Scott may correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by him.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

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

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

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Alberti, et al. : ON PETITION
Application No.: 11/940,814 :
Filed: November 15, 2007 :
Attorney Docket No.: 066042-9683-04 :

This is a decision on the renewed petition under 37 CFR 1.47(a), filed September 11, 2008.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Kenneth R. Jordan, has constructively refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(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 should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KENNETH R. JORDAN
N28 W29870 OAKWOOD GROVE ROAD
PEWAUKEE WI 53072

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OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Alberti, et al. : LETTER
Application No.: 11/940,814 :
Filed: November 15, 2007 :
Attorney Docket No.: 066042-9683-04 :

Dear Mr. Jordan:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202

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ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

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OFFICE OF PETITIONS

In re Application of :
PAUL SCARDINO :
Application No. 11/940,906 : DECISION ON PETITION
Filed: November 15, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **1136-001** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 declaration of inventor Paul Scardino, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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AUG 15 2008

In re Application of	:	
Gaitanaris, et al.	:	DECISION GRANTING STATUS
Application No. 11/940,917	:	UNDER 37 CFR 1.47(a)
Filed: November 15, 2007	:	
Attorney Docket No. 700128.401C1	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 20, 2008.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Kellie L. McIlwain, has constructively refused to join in the filing of the above-identified application. The petition fee of $200.00 is being charged to petitioners' deposit account.

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 Examination Processing for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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KELLIE L. MCILWAIN
33 KENNEDY STREET NW, #302
WASHINGTON, DC 20011

In re Application of :
Gaitanaris, et al. : LETTER
Application No. 11/940,917 :
Filed: November 15, 2007 :
Attorney Docket No. 700128.401C1 :

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AUG 15 2008

Dear Ms. McIlwain:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

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OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of :
Hitoshi, et al. :
Application No. 11/940,930 : DECISION GRANTING PETITION
Filed: November 15, 2007 :
Attorney Docket No. 06-967-US

This is a decision on the "RESPONSE TO NOTICE of INCOMPLETE NONPROVISIONAL APPLICATION", filed September 25, 2008, which is being tread as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of November 15, 2007.

The application was deposited on November 15, 2007. However, on August 4, 2008, 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.

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 at least one method claim, namely claims 1 - 15.

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 November 15, 2007, with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, no petition fee has been charged.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing for:

- **correction of the filing date to November 15, 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

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HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

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MAR 1 8 2009

OFFICE OF PETITIONS

In re Application of :
Aaron M. Feaver, et al. :
Application No. 11/941,015 : DECISION ON PETITION
Filed: November 15, 2007 : TO WITHDRAW
Attorney Docket No. ENEG-006/01US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2008.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on February 13, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **COOLEY GODWARD KRONISH LLP**
ATTN: Patent Group
Suite 1100
777-6th Street, NW
Washington, DC 20001

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OFFICE OF PETITIONS

King & Spalding, LLP
P.O. Box 889
Belmont, CA 94002-0889

In re Application of :
Dan V. Mourich et al. :
Application No. 11/941,033 : DECISION ON PETITION
Filed: November 15, 2007 : TO WITHDRAW
Attorney Docket No. 50450-8057.US01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 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 Peter J. Dehlinger on behalf of all attorneys/agents associated with customer number 79975. All attorneys/agents associated with customer number 79975 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 address is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: AVI BioPharma, Inc.
4575 S.W. Research Way
Suite 200
Corvallis, OR 97333

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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
11/941,033	11/15/2007	Dan V. Mourich	50450-8057.US01

CONFIRMATION NO. 8911

POWER OF ATTORNEY NOTICE

79975
King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

OC000000038022329

Date Mailed: 09/29/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2009.

- 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.

/kainabinet/

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

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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of
Roelof Van Zwol
Application No. 11/941,038
Filed: November 15, 2007
Attorney Docket No. 324212020700

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Yahoo C/O MOFO Palo Alto has been revoked by the assignee of the patent application on April 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: YAHOO! INC
701 FIRST AVENUE
SUNNYVALE, CA 94089

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JUN 2 8 2010

OFFICE OF PETITIONS

O"Melveny & Myers LLP
IP&T Calendar Department LA-13-A7
400 South Hope Street
Los Angeles CA 90071-2899

In re Application of
LIECHTUNG, M. MARC
Application No. 11/941,054
Filed: November 15, 2007
Attorney Docket No. **808946-4**

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 08, 2010

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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: **DEN-MAT HOLDINGS, LLC**
2727 SKYWAY DRIVE
SANTA MARIA CA 93455

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VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of :
Dong Hyuk Chae et al. :
Application No. 11/941,101 : ON PETITION
Filed: November 16, 2007 :
Attorney Docket No. **SEC.1404D** :

This is a decision on the petition filed February 19, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned December 23, 2008 for failure to timely pay the issue fee on or before December 22, 2008. Accordingly, a Notice of Abandonment was mailed January 15, 2009.

The issue fee in the amount of $1510.00, petition fee in the amount of $1620.00 and publication fee in the amount of $300 have been charged to petitioner's deposit account no. 50-0238, as authorized. All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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BRIDGESTONE AMERICAS HOLDING INC
1200 FIRESTONE PARKWAY
AKRON OH 44317

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Xiaorong Wang	:	
Application No. 11/941,128	:	ON PETITION
Filed: November 16, 2007	:	
Attorney Docket No. P00108US4A	:	

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

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely respond to the Notice to File Corrected Application Papers mailed December 14, 2007. This Notice set an extendable period for reply of two (2) months to submit replacement drawings. No drawings been received, the application became abandoned on February 15, 2008. A Notice of Abandonment was mailed on August 26, 2008.

Petitioner states that he did timely file a replacement drawings. In support thereof, petitioner has included a copy of a "Response to Notice to File Corrected Application Papers", made timely by including a Certificate of Transmission under 37 CFR 1.8 dated February 4, 2008.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing, using the drawings (Certificate of Mailing dated February 4, 2008) submitted with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Jones Day
901 Lakeside Ave
Cleveland, Ohio 44114

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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 05/24/2010

Applicant	: Sung-hee HWANG	: DECISION ON REQUEST FOR
Patent Number	: 7656764	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/941,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **40** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,167	11/16/2007	Stacy L. Arrington	RPS920070146US1	9155

59369 7590 12/17/2007

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER	
ART UNIT	PAPER NUMBER
2853	

MAIL DATE	DELIVERY MODE
12/17/2007	PAPER

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

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

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CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

DEC 17 2007

In re Application of:
Stacy L. Arrington et al.
Serial No.: 11/941,167
Filed: November 16, 2007
Docket: RPS920070146US1
Title: MAGNETIC ATTACHMENT OF PRINTER CUTTER BLADE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

This is a decision on the petition filed on November 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. §1.102(d) and M.E.P.E.P. §708.02(a).

The petition to make the application special is DISMIISED.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. §1.102(d), M.P.E.P. §708.02(a) 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 C.F.R. §1.111(a);

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

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 C.F.R. §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 C.F.R. §1.111(b) and (c);

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

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

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

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.4, and II.6 above. However, the petition does not meet conditions II.5 above.

Regarding the conditions set forth in II.5 above, the petition indicates that "[t]he pre-examination search was directed to the claimed invention, encompassing all the features of the claims and giving the claims their broadest reasonable interpretation." However, a review of the search logic outlined in the pre-examination search document does not include "magnet$" or "ferromagnet$." The use of magnetic force to hold the blade is an important feature in the claimed combination that is asserted in the accelerated examination support document as lacking in the cited prior art. As such, terminology such as "magnet$" and/or "ferromagnet$" must be included in the search logic in order to encompass "at least one magnet" recited in the claims and to satisfy the requirement that the search encompasses all the features of the claims as required under conditions II.5.2 above.

It is noted that the search should include class 347, subclass 222 for the housings for thermal printers and class 400, subclasses 691 and 693 for general printer housings and frames. Also, International Class B41J 11/70 is where the claimed invention would be classified in the international databases.

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) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,167	11/16/2007	Stacy L. Arrington	RPS920070146US1	9155

59369 7590 03/21/2008

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
COLILLA, DANIEL JAMES	
ART UNIT	**PAPER NUMBER**
2854	

MAIL DATE	DELIVERY MODE
03/21/2008	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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032008

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

MAR 21 2008

In re Application of:
Stacy L. Arrington et al.
Serial No.: 11/941,167
Filed: November 16, 2007
Docket: RPS920070146US1
Title: MAGNETIC ATTACHMENT OF PRINTER CUTTER BLADE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

This communication is a reply to the "Request for Reconsideration of Petition to Make Special" filed January 17, 2008. The Response is being treated as a petition requesting reconsideration of the previous decision of December 17, 2007, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed November 16, 2007.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to M.P.E.P. §708.02(a) and to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

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

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

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

effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

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

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

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

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

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

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

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

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

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

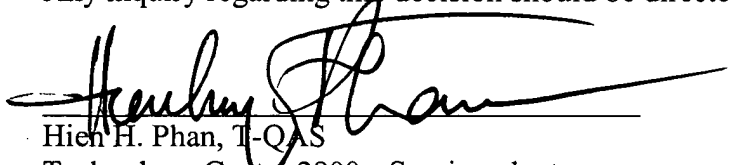
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.



Hien H. Phan, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JACKSON WALKER, L.L.P.
100 CONGRESS AVENUE
SUITE 1100
AUSTIN TX 78701

COPY MAILED

MAR 13 2008

OFFICE OF PETITIONS

In re Application of:	:	
Piepenbrink et al.	:	DECISION GRANTING
Application No. 11/941199	:	37 CFR 1.47(a)
Title of Invention:	:	
PURCHASING A GIFT USING A SERVICE PROVIDER NETWORK	:	

This Decision is in response to the "Petition to Make Application on Behalf of and as Agent for the Inventor (37 CFR 1.47(a))," filed February 12, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). See, MPEP 409.03.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Helen Ly, refuses to join in the application.

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

The application file is being referred to the Office of Patent Application Processing for continued processing in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MAR 13 2008

OFFICE OF PETITIONS

MS. HELEN LY
1075 JOSE LANE
ALAMEDA, CA 94502

In re Application of:
Piepenbrink et al.
Application No. 11/941199
Title of Invention:
PURCHASING A GIFT USING A SERVICE PROVIDER NETWORK

LETTER

Dear Ms. Ly:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

CC: RAMAN N. DEWAN
JACKSON WALKER, L.L.P.
100 CONGRESS AVENUE
SUITE 1100
AUSTIN TX 78701

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,233	11/16/2007	Gerard H. Llanos	ETHI-0038	9262

45511 7590 01/04/2008

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

EXAMINER	
ART UNIT	PAPER NUMBER
3738	

NOTIFICATION DATE	DELIVERY MODE
01/04/2008	ELECTRONIC

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

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

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

patents@woodcock.com

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JAN 4 2008

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

In re Application of	:
Gerard A. Llanos et al	: DECISION ON PETITION TO MAKE
Serial No.: 11/941,233	: SPECIAL FOR NEW APPLICATION
Filed: November 16, 2007	: UNDER 37 C.F.R. § 1.102 & M.P.E.P.
Attorney Docket No.: ETHI-0038	: § 708.02

This is a decision on the petition filed November 16, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

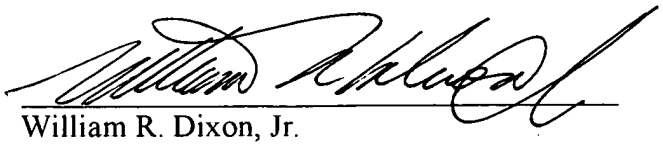
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,242	11/16/2007	Frank Johann Schwab	P33885.00	9278

62644 7590 05/28/2010

MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER	
NEGRELLI, CHRISTINA L	
ART UNIT	PAPER NUMBER
3733	

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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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of: SCHWAB, FRANK JOHANN Serial No.: 11/941,242 Filed: Nov. 16, 2007 Docket: P3385.00 Title: BONE ANCHOR AND SPINAL ALIGNMENT SYSTEM	DECISION ON PETITION

This is a decision on the petition filed on May 21, 2010 seeking withdrawal of the finality of the Office action mailed April 8, 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 27 was not amended in the amendment filed on December 22, 2009. Therefore, the rejection of at least claim 27 was not necessitated by the amendment filed on December 22, 2009. As such, the finality of the Office action issued on April 8, 2010 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on April 8, 2010 will be designated as non-final Office action. The period to respond to the Office action of April 8, 2010 remains unchanged. Since the finality is being withdrawn, any 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 April 8, 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.

Robert Olszewski, Director
Technology Center 3700

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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Matthew K. Fay	: DECISION ON REQUEST FOR
Patent Number	: 7621193	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/941,307	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2007	: 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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SPENCER FANE BRITT & BROWNE LLP
1 NORTH BRENTWOOD BLVD.
SUITE 1000
ST. LOUIS MO 63105-3925

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Linda Clenney	:	DECISION ON PETITION
Application No. 11/941,313	:	TO WITHDRAW
Filed: November 16, 2007	:	FROM RECORD
Attorney Docket No. 5012660-2	:	

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

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Glenn K. Robbins II on behalf of all attorneys of record who are associated with Customer No. 50379.

All attorneys/agents associated with Customer Number 50379 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Currently, there is an outstanding Office action mailed April 20, 2009 that requires a reply.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Linda Clenney
106 Twin Echo Court
Collinsville, Illinois 62234

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Commissioner for Patents
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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Seehusen, et al. : ON PETITION
Application No.: 11/941,314 :
Filed: November 16, 2007 :
Attorney Docket No.: 01194-499001 / 05-01570US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 12, 2008, to revive the above-identified application. In addition, the decision will address the petition under 37 CFR 1.47(a), filed September 12, 2008.

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

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 Nonprovisional Application, mailed December 12, 2007, which set a two month shortened statutory period for reply. Applicants obtained a five month extension of time pursuant to 37 CFR 1.136(a), paid a $200.00 petition fee, paid a $130.00 surcharge, and filed a partially executed declaration on June 19, 2008. The Office mailed a Notice of Incomplete Reply (Nonprovisional) on August 20, 2008 because a fully executed declaration had not been filed. This application became abandoned on July 13, 2008. The filing of the present petitions precedes the mailing of A Notice of Abandonment.

With respect to the Rule 47(a) petition: Petitioners have shown that the non-signing inventor, Todd Beaupre, has constructively refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(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.

With respect to the petition under 37 CFR 1.137(b): Petitioners have submitted a proper reply to the December 12, 2007 Notice in the form of the surcharge and a partially executed declaration with Rule 47(a) status presently accorded to the application to excuse Todd Beaupre's cooperation, an adequate statement of the unintentional nature of the delay in responding to the December 12, 2007 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioners must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Regarding fees, petitioners have paid two $200.00 Rule 47 petition fees. One $200.00 fee will be refunded to deposit account no. 06-1050.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,351	11/16/2007	Gerard H. Llanos	ETHI-0039	9480

45511 7590 01/04/2008

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

EXAMINER	
ART UNIT	PAPER NUMBER
3738	

NOTIFICATION DATE	DELIVERY MODE
01/04/2008	ELECTRONIC

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

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

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

patents@woodcock.com

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JAN 4 2008

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

In re Application of
Gerard A. Llanos et al
Serial No.: 11/941,351
Filed: November 16, 2007
Attorney Docket No.: ETHI-0039

: 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 November 16, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

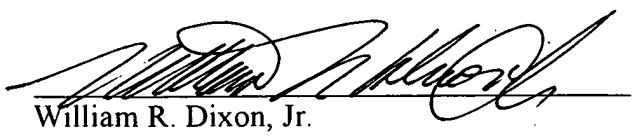
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

MAILED

JAN 22 2009

OFFICE OF PETITIONS

Applicant: Appler et al.
Appl. No.: 11/941,364
Filing Date: November 16, 2007
Title: COMPOSITION AND METHODS FOR INJECTION OF SEALANTS INTO AIR CONDITIONING AND REFRIGERATION SYSTEMS
Attorney Docket No.: 213899-00036
Pub. No.: US 2008/0060377 A1
Pub. Date: March 13, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 16, 2008, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors wherein Figures 1 and 3 are missing from the publication.

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

The error in the publication with respect to the omitted drawings may be Office mistakes, but they are not a material mistakes as required by 37 CFR 1.221(b). The error in the drawings in the publication is not a material mistake because the application is a Continuation of U.S. Application 10/860,646, now U.S. Patent 7,296,423 and U.S. Patent Application Publication 2005/0268642 A1. The parent application is published and contains the information printed correctly, thus the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon

[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).

issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL R. HENSON & ASSOCIATES, LLC
5613 DTC PARKWAY
SUITE 240
GREENWOOD VILLAGE, CO 80111

COPY MAILED

JAN 26 2009

OFFICE OF PETITIONS

In re Application of :
Kent H. Dickinson :
Application No. 11/941,366 : DECISION ON PETITION
Filed: November 16, 2007 : TO WITHDRAW
Attorney Docket No. TXP.np2 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 30, 2008.

The request is **APPROVED**.

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

The request was signed by John Wray Carpenter on behalf of all attorneys of record who are associated with customer No. 74043. All attorneys/agents associated with the Customer Number 74043 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: EGGS OVERNIGHT, INC.
1481 ROCK MOUNTAIN BOULEVARD
STONE MOUNTAIN, GA 30083

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/941,366	11/16/2007	Kent H. Dickinson	TZP.np2

CONFIRMATION NO. 9504

POWER OF ATTORNEY NOTICE

74043
Michael R. Henson & Associates, LLC
5613 DTC Parkway
Suite 240
Greenwood Village, CO 80111

OC000000034060694

Date Mailed: 01/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/30/2008.

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

/amwise/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,376	11/16/2007	Charles L. Alley	RPS920070135US1	9522

59369 7590 12/28/2007

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
MOFIZ, APU M	

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
12/28/2007	PAPER

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

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

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John Leonard Young
CANTOR COLBURN, LLP
IBM Research Triangle Park
20 Church Street
22nd Floor
Hartford, CT 06103

In re Application of:
Charles L. ALLEY et al
Serial No.: 11/941,376
Filed: November 16, 2007
Attorney Docket: RPS920070135US1
Title: SYSTEMS, METHODS AND COMPUTER PRODUCTS FOR COMPRESSION OF HIERARCHICAL IDENTIFIERS

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

This is a decision on the petition filed on November 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

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

REVIEW OF FACTS

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

With respect to item II.5.2 above, based upon the claimed subject matter of the instant application, a search in the following class and subclass is required in order to provide full coverage of where the most pertinent references are most likely to be found: Class 707, subclass 101 – Manipulating data structure (e.g., compression, etc.) to cover the claimed compressing feature in a storage management method and system as recited in independent claims 1 and 3. This additional search area was confirmed with a Supervisory Patent Examiner in the pertinent art area (Class 707).

With respect to item II.6.3, a **detailed explanation of how <u>each</u> of the claims are patentable** over the closest references cited with the particularity required by 37 CFR § 1.111(b) and (c) must be presented. The petition only provides a detailed explanation of patentability to claim 1. A review of the discussion of patentability as provided in the instant Accelerated Examination Support Document indicates that the closest references fail to recite each and every claimed limitations of the independent claim.

Regarding to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document fails to identify where each limitation of the dependent claims 2 and 4 finds support under 35 U.S.C. § 112, first paragraph in the instant application.

DECISION

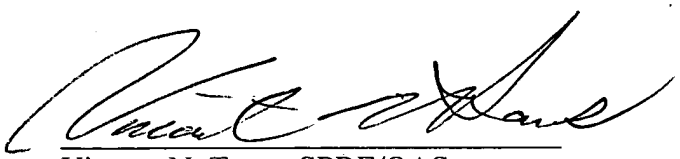
For the above-stated reasons, the petition is **<u>dismissed</u>**. The application will therefore be taken up by the examiner for action in its regular turn.

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 concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,376	11/16/2007	Charles L. Alley	RPS920070135US1	9522

59369 7590 02/05/2008

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
GAFFIN, JEFFREY A	

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
02/05/2008	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.

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John Leonard Young
CANTOR COLBURN LLP
IBM RESEARCH TRIANGLE PARK
20 Church Street
22nd Floor
Hartford, CT 06103

In re Application of:
Charles L. ALLEY et al
Serial No.: 11/941,376
Filed: November 16, 2007
Attorney Docket: RPS920070135US1
Title: SYSTEM, METHODS AND COMPUTER PRODUCTS FOR COMPRESSION OF HIERARCHICAL IDENTIFIERS

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

This is a decision on the renewed petition filed on January 25, 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 **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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

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

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

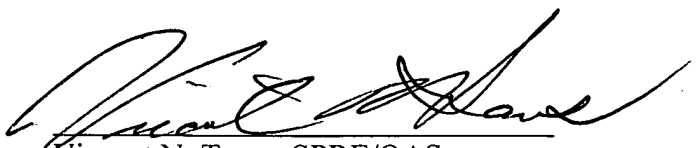
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,383	11/16/2007	Hiroyuki OKAZAKI	318476US26	9534

7590 09/11/2009

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

EXAMINER	
LYNCH, PATRICK D	

ART UNIT	PAPER NUMBER
3636	

NOTIFICATION DATE	DELIVERY MODE
09/11/2009	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.

Mimi Jurme)

Patent Publication Branch
Office of ~~Data~~ Management

Refund Ref:
09/11/2009 0338074248

Credit Card Refund Total: $510.00

An Exp..: XXXXXXXXXXX1002

Adjustment date: 09/11/2009 NFARMER
11/16/2007 INTEFSW 00009093 11941383
02 FC:1111 -510.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,449	11/16/2007	Gerard H. Llanos	ETHI-0040	9670

45511 7590 01/04/2008

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

EXAMINER	
ART UNIT	PAPER NUMBER
3738	

NOTIFICATION DATE	DELIVERY MODE
01/04/2008	ELECTRONIC

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

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

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

patents@woodcock.com

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JAN 4 2008

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

In re Application of
Gerard A. Llanos et al
Serial No.: 11/941,449
Filed: November 16, 2007
Attorney Docket No.: ETHI-0040

: 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 November 16, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

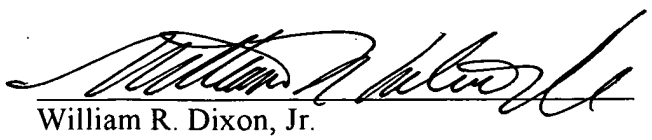
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No.

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

COPY MAILED

NOV 21 2008

OFFICE OF PETITIONS

In re Application of	:	
John Chen and Kamel Shaheen	:	DECISION NOTING JOINDER
Application No. 11/941,456	:	OF INVENTOR AND PETITION
Filed: November 16, 2007	:	UNDER 37 C.F.R. § 1.47 MOOT
Atty Docket No. ITC-2-1461.01.US	:	

This is in response to the PETITION UNDER 37 C.F.R. §1.47(a) TO ACCEPT DECLARATION ON BEHALF OF INVENTOR WHO CANNOT BE REACHED filed June 4, 2008. This decision is made in light of the SUPPLEMENTAL PETITION TO PETITION UNDER 37 C.F.R. §1.47(a) TO ACCEPT DECLARATION ON BEHALF OF INVENTOR WHO CANNOT BE REACHED filed September 2, 2008.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed with an application data sheet, but without an oath or declaration. In response to a "Notice to File Missing Parts of Nonprovisional Application" mailed December 13, 2007, on June 4, 2008, applicants filed the initial petition, petition fee and late surcharge. The petition was made timely by an accompanying petition and fee for extension of time for response within the fourth month. The petition requested acceptance of a declaration executed by inventor Kamel Shaheen on behalf of himself and on behalf of nonsigning inventor John Chen.

Prior to a decision being mailed, on September 2, 2008, applicants filed a supplemental petition. Accompanying the petition was a declaration for patent executed by previously nonsigning inventor Chen.

The declarations filed June 4, 2008 and September 2, 2008 have been reviewed and found in compliance with 37 CFR 1.47.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The $400 fee submitted with the supplemental petition on September 2, 2008, is unnecessary and is being refunded to Deposit Account No. 09-0435, as authorized.

This application will be examined in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

In re Application of
FUKUDA, YASUO
Application No. 11/941,515
Filed: November 16, 2007
Attorney Docket No. **00862.133253**

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 for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed May 27, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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

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

/Kenneth A. Wieder/

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART/CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Application of
Pooja Trivedi, et. al.
Application No. 11/941,521
Filed: November 16, 2007
Attorney Docket No. 20006579-1235
(CTX-380)

DECISION ON PETITION

This is a decision on the petition under 37 CFR I.I82 filed on January 7, 2010 and supplemented on March 2, 2010, to change the name of the inventor.

The petition is **dismissed**.

A review of the record fails to show a statement signed by the **inventor** setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order was not provided. Therefore, a statement from the inventor is required to be submitted[1].

Additionally, it is noted that the petitions filed January 7, 2010 and March 2, 2010 are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signatures of Cynthia M. Gilbert and Kellan D. Ponikiewicz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that they are authorized to represent the particular party on whose behalf they act.

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.

[1] *See* MPEP 605.04(c)

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

The Power of Attorney and Correspondence Address Indication Form filed on July 11, 2008 is not accepted, since petitioner failed to submit the required Statement under 37 CFR 3.73(b). *See* USPTO Form No. PTO/SB/96.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/22/2010

Applicant	: Javier de Salas	: DECISION ON REQUEST FOR
Patent Number	: 7626539	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/941,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2007	: 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,565	11/16/2007	Howard B. Bernstein	CAM920070162US1	9876

63606 7590 12/12/2007

CANTOR COLBURN LLP - IBM BOCA RATON
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER	
LO, WEILUN	

ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
12/12/2007	PAPER

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

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

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CANTOR COLBURN LLP – IBM
BOCA RATON
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of: Bernstein, et al.
Serial No.: 11/941,565
Filed: November 16, 2007
Docket: CAM920070162US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR GRAPHICAL USER INTERFACE PRESENTATION TO IMPLEMENT FILTERING OF A LARGE UNBOUNDED HIERARCHY TO AVOID REPETITIVE NAVIGATION

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

This is a decision on the petition filed on November 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees that the dependent claims will be grouped together with and not to separately argue the patentability of any independent claim from which they depend 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 conditions I. 1-4 & II. 1-5, 6.1, 6.2, 6.4 & 6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.1 - 5.3, 6.3 & 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items 5.1 - 5.3 above, the preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the (instant) claims. In addition, the preexam search must include all pertinent foreign patent documents. Note, there is no indication that the pre-exam search covers foreign patent documents.

Specifically and with respect to items 5.1 - 5.3 above, Petitioner should identify whether the text search logic identified in the instant petition was utilized in combination with the field of search (i.e. classes 345 and 707 and various subclasses identified in classes 709 and 715) or separate therefrom (i.e. state whether or not the identified classes and subclasses were searched in their entirety). In addition, based upon the claimed subject matter of the instant application, a search in the following class and subclass(es) is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: 715/777, 808 and 809 to cover the dialog box/window, as claimed.

With respect to the search logic identified, with respect to claims 1 - 3, the term "filter" in its context, may be too narrow. Instead, the following keyword (claim language) supplemental search is recommended (or equivalent) to complete the search:
(creat$3, generat$3, build$3, contruct$3) a (tree, directory) with user (selected, designated, specified) (nodes, folder, file)

The additional search areas and search recommendations were confirmed with and recommended by a (primary) examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Specifically, Petitioner does not clearly point out the particular language of the instant claims (1, 2 and 3) that distinguishes over the references deemed to be most closely related i.e. substantially the entirety of the instant claim 1 language has been identified to be "not taught or suggested by all of the references" (see para. 9(C) of the instant petition). Furthermore, it would be difficult to conclude that the pre-examination search was directed to the claimed invention if essentially none of the claimed limitations were found in the prior art deemed "most closely related" by Petitioner. In addition, there is no discussion or detailed explanation of patentability with respect to either Banning (U.S. 6,380,957) or Healy et al. (U.S. 5,644,736) cited by Petitioner to be most closely related. For these reasons, the petition does not meet the requirement of MPEP § 708.02(a)(I.)(I)(3).

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

With respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, Petitioner fails to identify where each limitation of the instant claims finds support under 35 USC 112, first paragraph, in the written description of the specification. Support for each limitation of each pending claim must be properly identified (by page, line or paragraph and/or figure). Specifically, reference is made to Petitioner's ***general*** allegation that "support in the disclosure under 35 USC 112, first paragraph, for claims 1-3 are found in at least Fig. 6 and paragraphs [0006] and [0034]". Clarification and identification of support for each limitation in the claims is required.

Thus, the petition does not meet the conditions II. 5.1-5.3, 6.3 and 6.5 above.

DECISION

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,565	11/16/2007	Howard B. Bernstein	CAM920070162US1	9876

63606 7590 02/07/2008

CANTOR COLBURN LLP - IBM BOCA RATON
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
LO, WEILUN	

ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
02/07/2008	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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1/5/2008

CANTOR COLBURN LLP – IBM BOCA RATON
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

In re Application of:
BERNSTEIN, et al.
Serial No.: 11/941,565
Filed: November 16, 2007
Docket: CAM920070162US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR GRAPHICAL USER INTERFACE PRESENTATION TO IMPLEMENT FILTERING OF A LARGE UNBOUNDED HIERARCHY TO AVOID REPETITIVE NAVIGATION

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

This is a decision on the renewed petition filed on January 8, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on November 16, 2007 was dismissed in the decision mailed on December 12, 2007.

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

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

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

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

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,596	11/16/2007	Gerard H. Llanos	ETHI-0041	9943

45511 7590 01/04/2008

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

EXAMINER	
ART UNIT	PAPER NUMBER
3738	

NOTIFICATION DATE	DELIVERY MODE
01/04/2008	ELECTRONIC

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

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

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

patents@woodcock.com

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JAN 4 2008

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

In re Application of
Gerard A. Llanos et al
Serial No.: 11/941,596
Filed: November 16, 2007
Attorney Docket No.: ETHI-0041

: 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 November 16, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

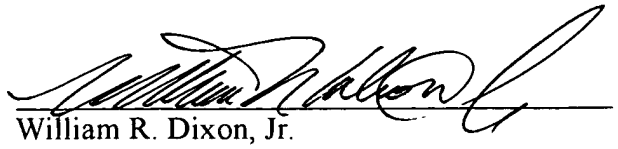
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

In re application of : **DECISION ON PETITION**
Glen Ulrich . : **TO MAKE SPECIAL FOR**
Application No. 11/941,636 : **NEW APPLICATION**
Filed: November 16, 2007 : **UNDER 37 CFR 1.102**
For: A METHOD, SYSTEM, AND COMPUTER-READABLE MEDIUM FOR REDUCING PAYEE FRAUD

This is a decision on the petition filed on November 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an

interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

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

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

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

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

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

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

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

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

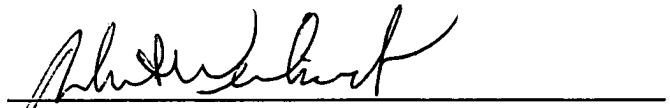
On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt
Business Practice Specialist
Technology Center 3600

RW/jm: 12/3/07

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Bryan Anderson, Attorney, Intellectual Property
PATENT SERVICES, Honeywell International, Inc.
101 Columbia Road
P.O. Box 2245
Morristown NJ 07962

COPY MAILED

OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Jamie W. Speldrich	:	
Application No.: 11/941685	:	DECISION ON
Filing or 371(c) Date: 11/16/2007	:	PETITION
Attorney Docket Number: H0016196-0769	:	

This is a decision in response to the Petition Under 37 CFR 1.137(a) for Revival of an Application for Patent Abandoned Unavoidably, filed September 14, 2008.

This Petition is hereby **dismissed**.

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

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 December 20, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 21, 2008. A Notice of Abandonment was mailed September 2, 2008.

Applicant files the present petition and asserts that the delay was unavoidable because the Notice was not received until September 11, 2008, after Applicant Honeywell received the Notice of Abandonment and telephoned this Office and the Notice was mailed to Honeywell.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37

CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c)

Analysis

1. Review of Office Records

A review of Office records reveal that the Notice was properly mailed to the correspondence address of record. A review of the address on the petition reveals that it differs from the correspondence address of record.

2. Evidence of Non-receipt

Petitioner has failed to demonstrate that the office action was not received. In addition to the statement from practitioner, and from the docket clerk, attesting to non-receipt of the Notice at the correspondence address of record, a copy of the practitioner's record(s) required to show non-receipt of the Office action is also required. The copy should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question a copy of the file jacket and docket records where the nonreceived Notice would have been entered had it been received and docketed.

Conclusion

The petition is dismissed without prejudice. Petitioner should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket. Petitioner is advised that any statement of non-receipt must be from a person with firsthand knowledge of the facts alleged (I.e. a statement of nonreceipt of the Notice from a person NOT at the correspondence address of record would be insufficient to demonstrate nonreceipt of the Notice.

Finally, 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.

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

CC: KERMIT D. LOPEZ
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ALBURQUERQUE, NM 87196-4484

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Bryan Anderson, Attorney, Intellectual Property
PATENT SERVICES, Honeywell International, Inc.
101 Columbia Road
P.O. Box 2245
Morristown NJ 07962

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OFFICE OF PETITIONS

In re Application of :
Jamie W. Speldrich :
Application No.: 11/941685 : DECISION ON
Filing or 371(c) Date: 11/16/2007 : PETITION
Attorney Docket Number: H0016196-0769 :

This is a decision in response to the Renewed Petition Under 37 CFR 1.137(a) for Revival of an Application for Patent Abandoned Unavoidably, filed October 23, 2008.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed December 20, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 21, 2008. A Notice of Abandonment was mailed September 2, 2008.

Applicant filed a petition under 37 CFR 1.137(a) on September 14, 2008, and asserted that the delay was unavoidable because the Notice was not received until September 11, 2008, after Applicant Honeywell received the Notice of Abandonment and telephoned this Office, and the Notice was then mailed to Honeywell.

The October 14, 2008 Decision dismissing the petition

The Petition was dismissed in a Decision mailed October 14, 2008. The Decision dismissing the petition noted that a review of Office records revealed that the Notice was properly mailed to the correspondence address of record, and a review of the address on the petition revealed that it differed from the correspondence address of record.

The Decision also required, in addition to the statement from practitioner, and from the docket clerk, attesting to non-receipt of the Notice at the correspondence address of record, a copy of the practitioner's record(s) required to show non-receipt of the Office action. The Decision informed Applicant that the copy should include the master docket for the firm. The Decision explained that if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the Decision informed the practitioner to so state, and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question a copy of the file jacket and docket records where the nonreceived Notice would have been entered had it been received and docketed.

Petitioner was advised that any statement of non-receipt must be from a person with firsthand knowledge of the facts alleged (i.e. a statement of nonreceipt of the Notice from a person NOT at the correspondence address of record would be insufficient to demonstrate nonreceipt of the Notice.

Finally, the Decision noted that 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.

The present renewed petition

Applicant files the present renewed petition and includes an explanation of the docketing system. Applicant also includes a copy of an email from Honeywell International, Inc., which refers to receipt of a Notice of Abandonment, but notes that there was no missing parts notice in their files. Petitioner acknowledges that the Decision noted that the Notice was properly mailed to the correspondence address of record, to wit – Patent Services, Honeywell International, Inc. – "despite this, the original missing parts notice was not received by practitioner, as demonstrated by the evidence provided herewith." Petition at p.3. Applicant believes that although the missing parts notice was properly mailed to the correspondence address of record, it was likely lost in the mail or delivered inadvertently to an incorrect address, which is why Applicant did not respond to the original missing parts.

No change of correspondence address was filed with the renewed petition.

Applicable Law, Rules and MPEP

The following law, rules and/or MPEP is reproduced from the October 14, 2008 Decision dismissing the petition:

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of

a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner at the correspondence address of record. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> <u>The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a</u>

conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

Analysis

It is reiterated that the Notice was properly mailed to the correspondence address of record. Petitioner herein has filed evidence confirming that Honeywell International, Inc., is the correspondence address where the Notice was mailed. As stated in the October 14, 2008 Decision, "any statement of non-receipt must be from a person with firsthand knowledge of the facts alleged (I.e. a statement of nonreceipt of the Notice from a person NOT at the correspondence address of record would be insufficient to demonstrate nonreceipt of the Notice." Decision at p.3.

Applicant/Petitioner herein, has attested to nonreceipt of the Notice; however, Petitioner herein is not a person with firsthand knowledge of nonreceipt of the notice. Moreover, petitioner "believes that although the missing parts notice was properly mailed to the correspondence address of record, it was likely lost in the mail or delivered inadvertently to an incorrect address, which is why Applicant did not respond to the original missing parts." As stated supra, the showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

Here, the circumstances point to a conclusion that the Office action was lost after receipt at the correspondence address of record. Petitioner has failed to demonstrate that the Office action was not received at the correspondence address of record. Petitioner has not provided any copies of docket records from the correspondence address of record, or any statements from anyone at the correspondence address of record attesting to nonreceipt of the Notice[1], or that a search of the file jacket and docket records at the correspondence address of record reveal that the Notice was not received at the correspondence address of record. Nor has petitioner provided a copy of the master docket for all replies due two months from the mail date of the Notice, or a statement that no such master docket exists at the correspondence address of record.

Conclusion

The petition is dismissed. Applicants may file a request for reconsideration. *After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.* Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence.

Finally, and as noted in the October 14, 2008 Decision dismissing the petition, "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

[1] A review of the copy of the email from Shelly Herndon at Honeywell International, Inc., wherein Ms. Herndon states she did not "see a missing parts and the filing receipt makes no mention of any problem either," reveals that it was generated from Ms. Herndon in Phoenix, Arizona.

case in accordance with MPEP 601.03. The Decision stated that until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record. 37 CFR 1.33 states that "[t]he Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director." While a courtesy copy of the October 14, 2008 Decision dismissing the petition was mailed to Petitioner herein, no such courtesy has been extended with the present Decision. Dual correspondence is not permitted. See, also, MPEP 403.

Alternate venue

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 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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Bryan Anderson, Attorney, Intellectual Property
PATENT SERVICES, Honeywell International, Inc.
101 Columbia Road
P.O. Box 2245
Morristown NJ 07962

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OFFICE OF PETITIONS

In re Application of	:	
Jamie W. Speldrich	:	
Application No.: 11/941685	:	DECISION ON
Filing or 371(c) Date: 11/16/2007	:	PETITION
Attorney Docket Number: H0016196-0769	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed January 5, 2009.

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 December 20, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 21, 2008. A Notice of Abandonment was mailed September 2, 2008.

Applicant files the present petition, and a additional claim fee in response to the Notice were filed September 14, 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 in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,705	11/16/2007	Candice L. Coletrane	RPS920070191US1	1159

59369 7590 12/17/2007

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER	
CALDWELL, ANDREW T	

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
12/17/2007	PAPER

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

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

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12/14/07

CANTOR COLBURN LLP
IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of:
Candice L. COLETRANE, ET AL.
Serial No.: 11/941,705
Filed: November 16, 2007
Docket: RPS920070191US1
Title: **METHOD FOR POST DELIVERY INSTANT MESSAGE REDIRECTION**

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 Nov 16, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 to II.4 above are considered to have been met. However, the petition fails to comply with conditions II.5 and II.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)(1) and item II.5 above, for database searches, Petitioner should identify whether the text search logic used was utilized in combination with the identified field of search (i.e. class 455 subclass 466 and class 709 subclasses 204-208) or separate therefrom (i.e. the identified classes and subclasses were searched in their entirety. Further, a search in the following class and subclasses is recommended in order to provide full coverage of where the most pertinent references are most likely to be found: Class 709 subclasses 227-228 (Computer-To-Computer Session/Connection Establishing and Parameter Setting). The additional search area was confirmed by a Primary examiner in the pertinent art area (Class 709). The Petitioner should review the all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the search covered these concepts in its broadest reasonable, and update the search and/or provide any clarification if deemed necessary.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and item II 6.2-6.3, it appears that section 9(B), titled Identification of Limitations Disclosed by the References, and section 9(C), Detailed explanation of Patentability, of the Accelerated Examination Support Document provide **conflicting information**. Section 9(B) of the Accelerated Examination Support Document appears to indicate that the Hayes (US 2007/0185967) and Fitzzpatrick (US 7,225,226) references disclose every limitation in claims 1 and 2 of the instant application. However, section 9(C) of the Accelerated Examination Support Document states that the references above fails to at least teaches or suggest several features of claim 1. The petitioner is required to view sections 9(B) and 9(C) and provide clarification and correction deemed necessary to explain **whether the Hayes and Fitzzpatrick references teach all the claimed limitations as indicated by section 9(B) and how the discussion of section 9(C) is valid in view of the discussion in section 9(B)** and comply with the requirements of 37 CFR 1.111(b) and (c). The petitioner should also provide specific statement indicating whether any additional patentability features is included in the dependent claim 2.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, section 9(E) of the Accelerated Examination Support Document identifies entire Figures 1 and 2 and paragraphs [008] and [0018-0021] of the specification as showing of support for the claims under 35 U.S.C. 112, First paragraph. However, section 9(E) fails to identify ***each claim limitations and the corresponding support in the cited portions*** of specification. It appears that the features in claims 1-2 are not **separately identified** with corresponding support in the cited portions. Clarification and identification of support is required.

DECISION

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

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

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

Kim Huynh,
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security

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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.
11/941,705	11/16/2007	Candice L. Coletrane	RPS920070191US1	1159

59369 7590 01/29/2008

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20 Church Street
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EXAMINER	
CALDWELL, ANDREW T	
ART UNIT	**PAPER NUMBER**
2142	

MAIL DATE	DELIVERY MODE
01/29/2008	PAPER

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

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

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1/29/08

CANTOR COLBURN LLP
IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of:
Candice L. COLETRANE, et al.
Serial No.: 11/941,705
Filed: November 16, 2007
Docket: RPS920070191US1
Title: **METHOD FOR POST DELIVERY INSTANT MESSAGE REDIRECTION**

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

This is a decision on the renewed petition filed on Jan 15, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on Nov 16, 2007 was dismissed in the decision mailed on Dec 17, 2007.

In the decision of Dec 17, 2007, the Petitioner was required to clarify his position regarding the patentability discussion, section 9(C) of the Accelerated Examination Support Document since all the limitations of claims 1-2 were mapped with associated portions of the Hayes and Fitzpatrick references. In the Revised Accelerated Examination Support Document, the Petitioner has provided a more detailed discussion of the patentability discussion to compare/contrast the claimed invention with respect to the relevant teachings in the prior art in the identified references. Though section 9(B) of the revised document continues to map all the claimed limitations to the references, **it is of the understanding that the Petitioner intends to locate the portions of the references that relate to the claimed features** rather than to identify the teaching of the claimed features.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

Kim Huynh, Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

SEP 02 2008

In re Application of	:	
Y. King Liu, et al.	:	
Application No. 11/941,733	:	DECISION ON PETITION
Filed: November 16, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. OSEON.004A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 27, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant Y. King Liu's drivers license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3733 for action on the merits commensurate with this decision.

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JUL 21 2008

In re Application of :
LIU, Y. King et al. :
Application No. 11/941,764 : DECISION ON PETITION
Filed: November 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **OSEON.003A** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), November 16, 2007 and re-submitted on June 27, 2008 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of Y. King Liu, driver's license attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3767 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Jean-Michel Metry, et al. :
Application No. 11/941,796 : DECISION ON PETITION
Filed: November 16, 2007 : TO WITHDRAW
Attorney Docket No. 300022-0201 : FROM RECORD
:

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 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 Sam L. Nguyen on behalf of all attorneys of record who are associated with customer No. 38706. All attorneys/agents associated with the Customer Number 38706 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 or at the first copied address below until otherwise properly notified by the applicant.

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

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

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

cc: JEAN-MICHEL METRY
RUE DE GRAVELON 1
SION 1950
SWITZERLAND

cc: WHEELOCK CHAN, LLP
PO BOX 61168
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/941,796	11/16/2007	Jean-Michel Metry	300022-0201

CONFIRMATION NO. 1339

POWER OF ATTORNEY NOTICE

38706
FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

OC000000033854470

Date Mailed: 12/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2008.

- 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.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/941,824	11/16/2007	Bong-Eun Yoon	60194/P849	1397

7590 11/04/2009

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
11/04/2009	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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OFFICE OF PETITIONS

BAKER & ASSOCIATES PLLC
470 EAST NINTH AVENUE
SALT LAKE CITY UT 84103

In re Application of :
Kibbie, et al. : DECISION REFUSING STATUS
Application No. 11/941,825 : UNDER 37 CFR 1.47(a)
Filed: November 16, 2007 :
Atty. Dkt. No.: 3050.17 :
For: REMOTE VIDEO MONITORING :
SYSTEMS UTILIZING OUTBOUND :
LIMITED COMMUNICATION PROTOCOLS :

This decision is in response to the petition under 37 CFR 1.47(a) filed November 16, 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 November 16, 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 instant petition fails to satisfy requirement (2) set forth above. 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 not acceptable. The declaration fails to comply with 37 CFR 1.63(a)(2) in that each page of the declaration indicates that each inventor is the sole inventor. Thus, the declaration does not set forth the entire inventive entity in

accordance with 37 CFR 1.63(a)(2). Further, the declaration fails to set forth the name, address, residence, and citizenship of the non-signing inventor in accordance with 37 CFR 1.63(a)(2), (a)(3) and (c)(1). Further, the declaration is not properly paginated, to wit, page 1 of 3, page 2 of 3, etcetera.

Any renewed petition must be accompanied by a proper oath or declaration in compliance with 37 CFR 1.63.

Practitioner is reminded of his obligations under 37 CFR 1.4(d)(4)(ii) that a person submitting a document signed by another under 37 CFR 1.4(d)(2) or (d)(3) is obligated to have a reasonable basis to believe that the person whose signature is present on the document was actually inserted by that person, and should retain evidence of authenticity of the signature.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulaney Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & ASSOCIATES PLLC
470 EAST NINTH AVENUE
SALT LAKE CITY UT 84103

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MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Kibbie, et al. : DECISION REFUSING STATUS
Application No. 11/941,825 : UNDER 37 CFR 1.47(a)
Filed: November 16, 2007 :
Attorney Docket No. 3050.17 :

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

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. Any extensions of time will be governed by 37 CFR 1.136(a).

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

The instant petition fails to satisfy requirement (2) set forth above. The declaration lacks compliance with 37 CFR 1.63(a)(2) in that the declaration does not list all the named inventors. Further, while the declaration states "[a]s an inventor named below or on any attached continuation page…," such a general reference to joint inventors does not satisfy 37 CFR 1.63(a)(2).

Petitioner's attention is directed to MPEP Section 602, which states:

> "Where joint inventors execute separate oaths or declarations, each oath or declaration should make

> reference to the fact that the affiant is a joint inventor together with each of the other joint inventors indicating them by name. This may be done by stating that he or she does verily believe himself or herself to be the original, first and joint inventor together with 'A' or 'A & B', etc."

Accordingly, a new declaration that lists all the inventors and is signed by all the signing inventor(s) and leaving the signature block of the non-signing inventor blank is required. *See also* MPEP Sections 201.03 and 409.03(a).

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

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

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

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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DITTHAVONG MORI
& STEINER, P.C.
918 PRINCE ST.
ALEXANDRIA VA 22314

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NOV 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Nakano :
Application No. 11/941,843 : DECISION
Filed: 16 November, 2007 :
Attorney Docket No. 01108_1018 :

This is a decision on the petition filed on 26 September, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners are directed to the Commentary at MPEP §711.03(c) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with that guidance in the Commentary at MPEP §711.03(c)(I)—Petitioner is asked to move stepwise through the requirements set forth there.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice of Missing Parts (a copy is enclosed herewith) mailed on 2 January, 2008, with reply due absent extension of time on or before 2 March, 2008.

The application went abandoned by operation of law after midnight 2 March, 2008.

The Office mailed the Notice of Abandonment 9 September, 2008.

On 26 September, 2008, Petitioner the instant petition with, *inter alia*, Petitioner's averment of non-receipt, however, while Petitioner provides some of the documentation as required and as set forth at MPEP §711.03(c)(I), he fails to complete the showing discussed therein.

Thus, Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I), which sets forth the showing requirements (to include: averment of non-receipt of the properly addressed Office action, and support for that averment with a description of the docketing system, a statement of non-receipt, a statement of search/review of the file, a copy of the docket record for the application, a copy of the master docket for the due date of the reply). .

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

[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).

CONCLUSION

Accordingly, The petition 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 terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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.

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
11/941,843	11/16/2007	Shinya NAKANO	01108_1018

CONFIRMATION NO. 1436

30671
DITTHAVONG MORI & STEINER, P.C.
918 Prince St.
Alexandria, VA 22314

FORMALITIES LETTER

Date Mailed: 01/02/2008

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. 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 statutory basic filing fee is missing.
  *Applicant must submit $**310** to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
  Note: If a petition under 37 CFR 1.47 is being filed, an oath or declaration in compliance with 37 CFR 1.63 signed by all available joint inventors, or if no inventor is available by a party with sufficient proprietary interest, is required.

The applicant needs to satisfy supplemental fees problems indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.16(f) of **$130** for a non-small entity, must be submitted with the missing items identified in this notice.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1160** for a non-small entity
- **$310** Statutory basic filing fee.
- **$130** Surcharge.
- The application search fee has not been paid. Applicant must submit **$510** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$210** to complete the examination fee for a non-small entity.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/ygizaw/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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& STEINER, P.C.
918 PRINCE ST.
ALEXANDRIA VA 22314

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Nakano :
Application No. 11/941,843 : DECISION
Filed: 16 November, 2007 :
Attorney Docket No. 01108_1018 :

This is a decision on the petition filed on 9 December, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

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. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 2 January, 2008, with reply due absent extension of time on or before 2 March, 2008.

The application went abandoned by operation of law after midnight 2 March, 2008.

The Office mailed the Notice of Abandonment 9 September, 2008.

On 26 September, 2008, Petitioner filed a petition with, *inter alia*, Petitioner's averment of non-receipt, however, while Petitioner provided some of the documentation as required and as set forth at MPEP §711.03(c)(I), he failed to complete the showing discussed therein.

Thus, Petitioner appeared not to comply with the guidance in the Commentary at MPEP §711.03(c)(I), which set forth the showing requirements (to include: averment of non-receipt of the properly addressed Office action, and support for that averment with a description of the docketing system, a statement of non-receipt, a statement of search/review of the file, a copy of the docket record for the application, a copy of the master docket for the due date of the reply). The petition was dismissed on 28 November, 2009.

On 9 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, a reply in the form of the oath, fees, surcharge, 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 are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

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

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

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the 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 the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP 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

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

JUN 2 8 2010

OFFICE OF PETITIONS

In re Application of
Gregory Bell, et al.
Application No. 11/941,857
Filed: November 16, 2007
Attorney Docket No. 578422002000

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 21, 2010.

The request is **NOT APPROVED** because it is 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 17, 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: **KING & SPALDING LLP**
P.O. BOX 889
BELMONT, CA 94002-0889

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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Novak, Druce & Quigg, LLP
1300 I Street, N.W.
Suite 1000, West Tower
WASHINGTON, DC 20005

COPY MAILED

JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
K. M. Slimak, et. al. :
Application No. 11/941,870 : ON PETITION
Filed: November 16, 2007 :
Attorney Docket No. 8686.006.CNUS :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 31, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed December 12, 2007. A Notice of Abandonment was mailed on August 20, 2008.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Thomas P. Pavelko 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of fourteen sheets of replacement drawings containing Figures 1-27; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

Telephone inquiries 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Novak, Druce & Quigg LLP
1300 I Street, N.W.
Suite 1000, West Tower
WASHINGTON DC 20005

In re Application of	:	
K.M. Slimak et al.	:	
Application No. 11/941,870	:	DECISION ON PETITION
Filed: November 16, 2007	:	TO WITHDRAW
Attorney Docket No. 8686.006.CNUS00	:	FROM RECORD
	:	

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 6, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Thomas P. Pavelko and attorneys/agents with customer number 77176: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future correspondence will be mailed to the address of the first signing inventor.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Karen M. Slimak
9207 Shotgun Court
Springfield, VA 22153

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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ELIZABETH SWANSON
c/o SWANSON & ASSOCIATES
9454 WILSHIRE BLVD.
SUITE 500
BEVERLY HILLS CA 90212

COPY MAILED

OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of :
RICHMOND, David et al. :
Application No. 11/941,879 : DECISION ON PETITION
Filed: November 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **VIBRA TUBE** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 09, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the declaration of inventor Howard Richmond, 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 1648 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TED MASTERS
TED MASTERS & ASSOCIATES, INC.
5121 SPICEWOOD DRIVE
CHARLOTTE, NC 28227-0313

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Rodger Lawrence Felt :
Application No. 11/941,880 : DECISION ON PETITION
Filed: November 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. FEL-2.001.US : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 26, 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 3672 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
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GANZ LAW, P.C.
P O BOX 2200
HILLSBORO OR 97123

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
FELT, Rodger L. :
Application No. 11/941,880 :
Filed: November 16, 2007 :
Attorney Docket No. **FEL-2.001.US** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 05, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Brandley M. Ganz on behalf of all attorneys of record who are associated with customer No. 22874. 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 Redger L. Felt at the address indicated below.

There is an outstanding Office action mailed November 24, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RODGER FELT**
c/o RODEL OIL & GAS
1830 S. KIRWOOD ROAD
SUITE 202
HOUSTON, TX 77077

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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

COPY MAILED

AUG 15 2008

In re Application of:	:	
Lee et al.	:	DECISION DISMISSING
Application No.: 11/941884	:	PETITION UNDER
Filing or 371(c) Date: 11/16/2007	:	37 CFR 1.47(a)
Title of Invention:	:	
CATHETER WITH OMNI-	:	
DIRECTIONAL OPTICAL TIP HAVING	:	
ISOLATED OPTICAL PATHS	:	

This Decision is in response to the "Petition Under 37 C.F.R. 1.47(a) and MPEP 409.03(a) to Accept Application on Behalf of Uncooperative Joint Inventors," filed July 11, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on November 16, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on December 11, 2007, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition wherein Applicant asserts that the nonsigning inventor refuses to join in the application. In support of this assertion, Applicant files the Declaration of Ms. Lauren E. Schneider wherein Ms. Schneider states that she sent the nonsigning inventor for signature the Declaration and Assignment documents via email, and received an email from the

nonsigning inventor indicating his refusal to sign the Declaration and Assignment. A copy of the email from the nonsigning inventor have been included 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:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

Analysis

Applicant has not presented evidence that demonstrates that it is clear that the inventor understands exactly what it is that he is being asked to sign. Applicant is cautioned that receipt of an application via email transmission must be demonstrated by Applicant before a petition may be granted. While receipt of an email may be confirmed by the sender, receipt of an email attachment may not be confirmed by the sender. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor.

The MPEP further provides

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition. (Emphasis supplied).

MPEP 409.03(d).

In this instance, Applicant asserts that a copy of the Declaration and Assignment were sent to the nonsigning inventor via email, however, there is no evidence to support a finding that the application was sent to or received by the inventor. Applicant is advised to mail the application (specification, claims and drawings), to the last known address of the inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Conclusion

Applicant must make a bona fide effort to present a copy of the application to the nonsigning inventor before a refusal to join in the application may be alleged.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of:	:	
Lee et al.	:	DECISION GRANTING
Application No.: 11/941884	:	PETITION UNDER
Filing or 371(c) Date: 11/16/2007	:	37 CFR 1.47(a)
Title of Invention:	:	
CATHETER WITH OMNI-	:	
DIRECTIONAL OPTICAL TIP HAVING	:	
ISOLATED OPTICAL PATHS	:	

This Decision is in response to the "Request for Reconsideration of Petition Under 37 C.F.R. 1.47(a) and MPEP 409.03(a) to Accept Application on Behalf of Uncooperative Joint Inventors," filed November 17, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Chad Allen Lieber, refuses to join in the application.

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

The application file is being referred to Technology Center Art Unit 3739 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
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MR. CHAD ALLEN LIEBER
16303 OBSERVATION LANE
CHINO HILLS, CA 91709

COPY MAILED

DEC 19 2008

OFFICE OF PETITIONS

In re Application of:
Lee et al.
Application No.: 11/941884
Filing or 371(c) Date: 11/16/2007
Title of Invention:
CATHETER WITH OMNI-DIRECTIONAL OPTICAL TIP HAVING ISOLATED OPTICAL PATHS

LETTER

Dear Mr. Lieber:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST, SUITE 900
HUNTSVILLE AL 35801

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
WALKER, William H. :
Application No. 11/941,905 : DECISION ON PETITION
Filed: November 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **OB175-91913** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 30, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the affidavit of inventor William H. Walker, 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 Patent Application Processing at 571-272-4000.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN WHITAKER
WHITAKER LAW GROUP
755 WINSLOW WAY EAST
SUITE 100
BAINBRIDGE ISLAND WA 98110

In re Application of :
Rao :
Application No. 11/941,910 : DECISION
Filed: 16 November, 2007 :
Attorney Docket No. TW001 :

This is a decision on the petition filed on 16 September, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

As to the Allegations
of Unintentional Delay

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

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 8 September, 2008, with reply due absent extension of time on or before 8 December, 2008.

The application went abandoned by operation of law after midnight 8 December, 2008.

The Office mailed the Notice of Abandonment on 29 April, 2009.

On 16 September, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment and made the statement of unintentional delay. However, Petitioner chose to comment further that:

> The outstanding Office action was mailed by the Patent Office to an old address for the attorney of record and was, therefore, not received. The attorney of record had moved offices before the Office Action was mailed and the Patent Office had not yet updated its records with the change of address. (Emphasis supplied.)

It is notable that Petitioner makes this allegation, but fails to evidence Notice provided by him to the Office in advance of the relocation of his offices of that planned relocation and new address.

Thus, Petitioner's facile statement does not appear to comport with the facts/evidence of record. (*See*: a belated Notice of change of address is not appropriate: MPEP §601.03, §711.03(c).)

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.

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 under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2626 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

---

[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.

[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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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

MAILED

JUL 0 6 2010

OFFICE OF PETITIONS

In re Application of :
THOMAS, Michael R. :
Application No. 11/941,930 : DECISION ON PETITION
Filed: November 17, 2007 : TO WITHDRAW
Attorney Docket No. **43381-106075** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2010.

The request is **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 was signed by John P. Wappel on behalf of all attorneys of record, however it 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.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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FEB 26 2009

OFFICE OF PETITIONS

OHLANDT GREELEY RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901

In re Application of :
Moshe Wasserblat et al :
Application No. 11/941,947 : ON PETITION
Filed: November 18, 2007 :
Attorney Docket No. 0004822USU/2279 (4257/093 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 15, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 16, 2008.

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

This matter is being referred to Technology Center AU 2626 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

MARK YOUNG, P.A.
12086 FORT CAROLINE ROAD
UNIT 202
JACKSONVILLE FL 32225

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MAR 16 2010

In re Application of :
Nathan Groff :
Application No. 11/941,972 :
Filed: November 19, 2007 :
Attorney Docket No. IS07.001 :

DECISION ON PETITION

This is a decision on the second petition, under 37 CFR 1.137(b) filed on December 22, 2009 and resubmitted on January 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-Final Office Action mailed February 04, 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) was obtained. Accordingly, the above-identified application became abandoned on May 5, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply, unless previously filed; (2) the petition fee of $810 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 of $140 as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Accordingly, the reply to the non-Final Office Action mailed February 04, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure,

section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

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. 1998). Since the $550 extension of time fee submitted with the first petition on December 22, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

The Application is being referred to Art Unit 3689 for further processing.

David Bucci
Petitions Examiner
Office of Petitions

CC: STEPHEN E. KELLY
1301 RIVERPLACE BLVD., STE. 1500
JACKSONVILLE, FL 32207

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,055	11/19/2007	Jin-Boo Son	0009.1077	1887

7590 10/23/2009

STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
10/23/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
10/22/2009 C033073857

Credit Card Refund Total: $510.00

Acct Exp..: XXXXXXXXXXX1035

Adjustment date: 10/22/2009 NFARMER
11/19/2007 INTEFSW 00006672 11942055
02 FC:1111 -510.00 CP

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Karl E. Benson	: DECISION ON REQUEST FOR
Patent Number	: 7667046	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/942,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.
11/942,139	11/19/2007	Alexey Nevidomskiy	GB920070130US1	1058

74599 7590 02/27/2008

Cantor Colburn LLP-IBM Europe
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
HUTTON JR, WILLIAM D	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

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

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

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Cantor Colburn LLP-IBM Europe
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
Alexey Nevidomskiy
Serial No.: 11/942139
Filed: November 19, 2007
Docket: GB920070130US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR AUTOMATIC DISSEMINATION OF SPELLING RULES WITHIN WORKING GROUPS

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

This is a decision on the petition filed on November 19, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.5.1 , II.5.3, II.6.1, II6.2 , II.6.4 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5.2 , II.6.3 and II.6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items II.5.2 above, the preexamination search does not encompass all of the features of the claims .

> Specifically, with respect to the database searches, claim limitations some of which have been identified as patentable features distinguishing the claimed invention from the cited prior art (such as "automatic dissemination", "sender computer", "recipient computer", "absent from a dictionary", "*flagged* word", "tagging the flagged word", "*added to the dictionary* associated with the *recipient* computer" as recited in claim 1; "*additional* tagged words. *absent* from the *document*" as recited in claim 2; "*automatically* added", "in response to ...*receiving* the document" as recited in claim 3 and "in accordance with the *preference* of the *recipient* computer" as recited in claim 4) or any search terms covering these limitations do not appear to have been included in the search. Petitioner should review all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure that the search covers these concepts, and update the search and/or provide any clarifications if deemed necessary.

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

Regarding the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims is patentable with the particularity required by 37 CFR 1.111(b) and (c).

> Specifically, petitioner only discusses limitations not believed to be disclosed by each of the references, discussing each reference individually, but does not point out how each claim is patentable (i.e. neither anticipated nor obvious) over the references, either individually or in combination with each other. Clarification is required.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, the Accelerated Examination Support Document only cites to several paragraphs in the specification as providing support for a number of claims, without specifically pointing out where ***each limitation in each claim finds support in the specification***. Correction and/or clarification is required.

---

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

DECISION

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist can be reached at (571)272-4210.

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,139	11/19/2007	Alexey Nevidomskiy	GB920070130US1	1058

74599 7590 06/20/2008

Cantor Colburn LLP-IBM Europe
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
HUTTON JR, WILLIAM D	

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
06/20/2008	PAPER

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

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

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Cantor Colburn LLP-IBM Europe
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
Alexey Nevidomskiy
Serial No.: 11/942139
Filed: November 19, 2007
Docket: GB920070130US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR AUTOMATIC DISSEMINATION OF SPELLING RULES WITHIN WORKING GROUPS

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

This is a decision on the renewed petition filed on March 27, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on November 19, 2007 was dismissed in the decision mailed on February 27, 2008.

The petition to make the application special is GRANTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571)272-4210.

/Kakali Chaki/

Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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JUSTIN R. SAUER, ESQUIRE
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
P.O. BOX 3791
ORLANDO FL 32802-3791

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NOV 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Dorothy Shook Nickels	:	
Application No. 11/942,194	:	ON PETITION
Filed: November 19, 2007	:	
Attorney Docket No. 41051_UT	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 19, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by the applicant that she is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3782 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

Mail Date: 04/20/2010

Applicant	: Mark Thomas Arthur	: DECISION ON REQUEST FOR
Patent Number	: 7625517	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/942,226	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

PTO/SB/130 (03-08)
Approved for use through 06/30/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/942,268	Confirmation Number	1293	Filing Date	2007-11-19
Attorney Docket Number (optional)	084964-0102	Art Unit	2623	Examiner	Unknown
First Named Inventor	Howard C. Lock				
Title of Invention	CABLE TELEVISION MESSAGING ALERT SYSTEM				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Howard	C.	Lock	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	//Paul S. Hunter//	Date (YYYY-MM-DD)	2008-06-09
Name	Paul S. Hunter	Registration Number	44787

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Application of
Howard Lock

Application No. 11942268

Filed: November 19,2007

Attorney Docket No. 084964-0102

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

The petition is **GRANTED**.

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

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

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

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

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Howard LOCK :
Application No. 11/942,268 : DECISION ON PETITION TO
Filed: November 19, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **084964-0102** :

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

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

There is an outstanding non-final Office action mailed May 28, 2009 that requires a reply from the applicant.

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

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

cc: **HOWARD LOCK**
151 NORTH CRANBERRY AVENUE
PESHTIGO, WI 54157

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

AUG 0 6 2009

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

In re application of	:	DECISION ON REQUEST TO
Toshihisa Nihei	:	PARTICIPATE IN PATENT
Application No. 11/942,314	:	PROSECUTION HIGHWAY
Filed: November 19, 2007	:	PROGRAM AND PETITION
For: VEHICLE BEHAVIOR CONTROL	:	TO MAKE SPECIAL UNDER
SYSTEM AND METHOD	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 5, 2009, to make the above-identified application special.

The request and petition are **DISMSSED**.

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

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

The request to participate in the PPH pilot program and petition fail to include:

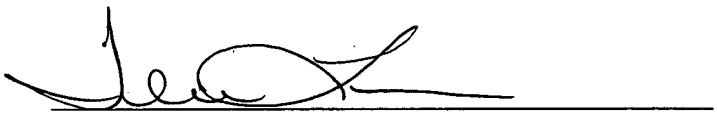
(3) all claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

The claims of the U.S. application do not sufficiently correspond or have been amended to sufficiently correspond to the allowable/patentable claims in the JPO application. Specifically, there are no claims in the JPO application which correspond to U.S. application claim 15. Claim 15 is a method claim. There are no method claims in the U.S. application. Since there are no JPO claims that corresponds to U.S. claim 15, the PPH petition fails meet the guidelines of the PPH program.

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

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.



Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 8/6/09

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SEP 0 4 2009

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

In re application of	:	DECISION ON REQUEST TO
Toshihisa Nihei	:	PARTICIPATE IN PATENT
Application No. 11/942,314	:	PROSECUTION HIGHWAY
Filed: November 19, 2007	:	PROGRAM AND PETITION
For: VEHICLE BEHAVIOR CONTROL	:	TO MAKE SPECIAL UNDER
SYSTEM AND METHOD	:	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 September 3, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

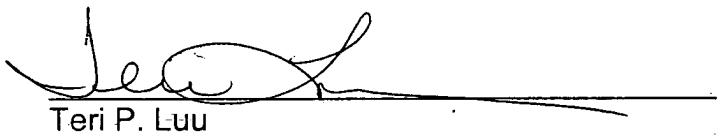
(7) The required petition fee under 37 CFR 1.17(h).

A first request to participated in the PPH program and petition to make special was filed on August 5, 2009. However, that request and petition was dismissed on August 6, 2009 because all the claims in the U.S. application did not sufficiently correspond or were amended to sufficiently correspond to the allowable/patentable claims in the JPO application.

In light of the preliminary amendment filed September 3, 2009, the renewed request and petition now comply with the above requirements. Accordingly, the above identified application has been accorded "special" status.

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

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.



Teri P. Luu
Quality Assurance Specialist
Patent Technology Center 3600

tpl: 09/03/09

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

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In re Application of
Horst Reinkensmeyer
Application No. 11/942,355
Filed: November 19, 2007
Attorney Docket No. FRI-PT 06-095

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 2, 2009.

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

A review of the file record indicates that the power of attorney to Lerner Greenberg Stemer LLP has been revoked by the assignee of the patent application on November 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **WORKMAN NYDEGGER**
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of
Bryan T. Oronsky et al.
Application No. 11/942,414
Filed: November 19, 2007
Attorney Docket No. **CGR-003**

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 October 28, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 25226 has been revoked by the assignee of the patent application on November 19, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,478	11/19/2007	Lev Ring	2725-43000	1672

7590 07/11/2008

Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER	
DANG, HOANG C	

ART UNIT	PAPER NUMBER
3672	

MAIL DATE	DELIVERY MODE
07/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
07/11/2008 0030058315

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1004

Adjustment date: 07/11/2008 NFARMER
11/20/2007 INTEFSW 00004255 11942478
02 FC:1111 -510.00 OP

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JAN 2 1 2009

In re Application of :

MARTIN, Catherine :
Application No. 11/942,510 : DECISION ON PETITION
Filed: November 19, 2007 : TO WITHDRAW
Attorney Docket No. **CMRTN.002A** : FROM RECORD
:

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 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 John M. Grover on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Catherine Martin 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: **CATHERINE MARTIN**
26 WINDFLOWER
IRVINE, CA 92603

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In re Application of :

EVANS, Simon J. W. :
Application No. 11/942,512 : DECISION ON PETITION
Filed: November 19, 2007 : TO WITHDRAW
Attorney Docket No. **604502000800** : FROM RECORD
:

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 14, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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TECHNOLOGY CENTER 2600

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

In re Application of
EVANS, SIMON J.W.
Application No. 11/942,512
Filed: November 19, 2007
Attorney Docket No. 333646US8

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed April 15, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

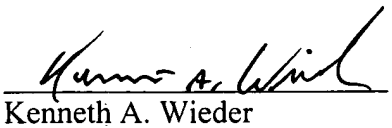
A grantable request to participate in the PPH pilot program and petition to make special require:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

WHYTE HIRSCHBOECK DUDEK S.C.
INTELLECTUAL PROPERTY DEPARTMENT
33 EAST MAIN STREET, SUITE 300
MADISON, WI 53703-4655

In re Application of :
Khalid Mentak, et al. :
Application No. 11/942,527 : ON PETITION
Filed: November 19, 2007 :
Attorney Docket No. KMT-33591-A :

This is a decision on the petition, filed May 27, 2009, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 6, 2008. A Notice of Abandonment was subsequently mailed on May 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and appeal fee of $270; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1796 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,544	11/19/2007	David A. George	YOR920070168US1(21051)	1791

48233 7590 02/27/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
02/27/2008	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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400 GARDEN CITY PLAZA
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In re Application of:
David A. George et al.
Serial No.: 11/942,544
Filed: November 19, 2007
Docket: YOR920070168US1(21051)
Title: METHOD AND APPARATUS FOR A FLOATING ISLAND FOR USER NAVIGATION IN AN INTERACTIVE ENVIRONMENT

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

This is a decision on the petition filed on November 19, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 – I.4, II.5.1 , II.5.3, II6.2 , II.6.4 , II.6.5 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.5.2, II.6.1 and II.6.3 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items II.5 and II.5.2 above, the search logic used in the USPTO EAST database is unclear.

> Specifically, several search logic presented on page 3 of the Pre-examination Search document include a class/subclass indicator 715779, which appears to be inconsistent with the format for indicating class and subclass searched in USPTO EAST.
>
> Further, the search logic used to search non-patent literature search in Dialog and Google includes combination of keywords without identifying any default operator (such as "AND" or "OR"). Specifically, the search logic used in each of the Dialog Pro, Dialog and Google appears to includes a phrase *icon space* , while it is unclear whether these two keyword were used as a phrase, or used in conjunction with a logical operator (Such as "AND" or "OR") or a proximity operator (Such as "NEAR" or "within"). Correction and/or clarification is required.
>
> Finally, based upon the claimed subject matter of the instant application, a search in the following class and subclass (where the application has been classified and docketed) is recommended in order to provide full coverage of where the most pertinent references are most likely to be found: Class 715, subclass 811 (Menu or selectable iconic array based on usage or user profile) for subject matter related to claimed "automatically populating...based on....*anticipated current user needs*).

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

Regarding the requirement of item 6.1 above, while petitioner lists all references deemed most closely related to the subject matter of the instant claims on an Information Disclosure Statement (IDS) in support of the petition (IDS I), it is unclear why some of the references listed on the IDS filed with the application not in support of the petition were deemed to be less relevant than some references cited in the IDS in support of the petition (IDS II). Specifically, the disclosure of US Patent Publication 2007/0118813 to Forstall et al. listed on IDS II appears to be inclusive of that of US Patent Publication 2007/0162850 to Adler et al. listed on IDS I and discussed in the Accelerated Examination Support Document (AESD), and the disclosure of US Patent 6,509,912 to Moran et al. listed on IDS II appears to be inclusive of that of US Patent 6,377,288 to Moran et al. listed on IDS I and discussed in the AESD. Petitioner is required to provide reasons why the above mentioned documents cited in the IDS not in support of the petition were deemed to be

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

not as closely related to the claimed subject matter as the corresponding documents cited in the IDS in support of the petition and discussed in the AESD, or list these two documents (US Patent Publication 2007/0118813 to Forstall et al. and US Patent 6,509,912 to Moran et al.) on the IDS in support of the documents and include a discussion of these documents in accordance with items 6.2 and 6.3 above.

Regarding the requirement of MPEP §708.02(a)(I.)(I)(3) and item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims is patentable with the particularity required by 37 CFR 1.111(b) and (c).

> Specifically, 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out *how the language of the claims patentably distinguishes* them from the references does not comply with the requirements of this section." While petitioner points out several features of the instant invention in section 9(C) of the AESD, none of the features asserted as patentably distinguishing the instant claims from the references deemed most closely related is recited in any of instant claims 1 and 2. Specifically, the discussion in section 9(B) of the AESD appears to indicate that all of the limitations in each of claims 1 and 2 are disclosed in each of the references. Further, none of the instant claims 1 and 2 recites any limitations regarding "icons ***to be grouped within*** a floating island", "***automatically*** adjusts to the user", "***dynamically*** populated", "icons ***required to launch the program***", "***the anticipatory need based on the current context***" as asserted in section 9(C) of the AESD. Thus petitioner has not clearly explained how the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). Correction and/or clarification is required.

DECISION

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571)272-4210.

Kakali Chaki, Quality Assurance Specialist, Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,544	11/19/2007	David A. George	YOR920070168US1(21051)	1791

48233 7590 05/01/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
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EXAMINER	
CHOW, DOON Y	

ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
05/01/2008	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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400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
David A. George et al.
Serial No.: 11/942,544
Filed: November 19, 2007
Docket: YOR920070168US1(21051)
Title: METHOD AND APPARATUS FOR A FLOATING ISLAND FOR USER NAVIGATION IN AN INTERACTIVE ENVIRONMENT

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

This is a decision on the renewed petition filed on March 27, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d), and the Supplemental Information Disclosure Statements filed therewith.
The original petition, submitted on November 19, 2007 was dismissed in the decision mailed on February 27, 2008.

The petition to make the application special is GRANTED.

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

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

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

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

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

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

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

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

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

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

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

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

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

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

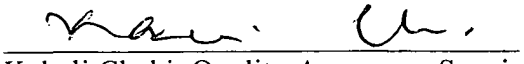
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571)272-4210.



Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER
SUITE 2800
SAN FRANCISCO CA 94105

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JUN 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Chang S. SUH	:	
Application No. 11/942,567	:	DECISION ON PETITION
Filed: November 19, 2007	:	
Attorney Docket No. **068949-5009-US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 18, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 18, 2008. Accordingly, the date of abandonment of this application is February 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and Publication Fee are accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RYAN D. BENSON
STOEL RIVES LLP
SUITE 1100
201 S. MAIN STREET
SALT LAKE CITY UT 84111

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JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Gregory, Ronald	:	DECISION ON PETITION
Application No. 11/942,591	:	TO WITHDRAW
Filed: November 19, 2007	:	FROM RECORD
Attorney Docket No. 39517/5	:	

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 26, 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.*

As there is no Statement under 37 CFR 3.73(b) in the instant application, the request cannot be granted at this time. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of
DANILAK, Radoslav
Application No. 11/942,623
Filed: November 19, 2007
Attorney Docket No. **SAF1P006**

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 11, 2010.

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

A review of the file record indicates that the power of attorney to ZILKA-KOTAB, PC has been revoked by the assignee of the patent application on March 15, 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: **SANDFORCE, INC.**
ATTENTION: EARL COHEN
12950 SARATOGA AVE
SARATOGA CA 95070-4658

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OFFICE OF PETITIONS

HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

In re Application of	:	
Rambod, et al.	:	DECISION GRANTING STATUS
Application No. 11/942,626	:	UNDER 37 CFR 1.47(a)
Filed: November 19, 2007	:	
Attorney Docket No. **NQCR-28,505**	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 9, 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 regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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1211 Laurel Way
Beverly Hills, California 90210

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of
Rambod, et al.
Application No. 11/942,626
Filed: November 19, 2007
Attorney Docket No. NQCR-28,505

Dear Madam:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APR 05 2010

OFFICE OF PETITIONS

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of :
DANILAK, Radoslav :
Application No. 11/942,629 : DECISION ON PETITION
Filed: November 19, 2007 : TO WITHDRAW
Attorney Docket No. **SAF1P010** : FROM RECORD
:

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 11, 2010.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to ZILKA-KOTAB, PC has been revoked by the assignee of the patent application on March 15, 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/
Petitions Examiner
Office of Petitions

cc: **SANDFORCE, INC.**
ATTENTION: EARL COHEN
12950 SARATOGA AVE
SARATOGA CA 95070-4658

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re application of :
WRIGHT, KEN, et al. :
Application Serial No. 11/942,630 :
Filed: November 19, 2007 :
For: **SYSTEM AND METHOD FOR PRODUCING MEDICAL IMAGE DATA ONTO PORTABLE DIGITAL RECORDING MEDIA** :

DECISION
ON PETITION

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

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

Petitioner requests that the information submitted as documents 1-77 in an Information Disclosure Statement filed September 3, 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, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

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

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

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Application of :
Radoslav DANILAK :
Application No. 11/942,631 : DECISION ON PETITION
Filed: November 19, 2007 : TO WITHDRAW
Attorney Docket No. **SAF1P009** : FROM RECORD
:

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 11, 2010.

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

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 15, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SANDFORCE, INC.**
ATTENTION: EARL COHEN
12950 SARATOGA AVE
SARATOGA CA 95070-4658

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APR 16 2010

OFFICE OF PETITIONS

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of	:	
Radolav DANKILAK	:	
Application No. 11/942,640	:	DECISION ON PETITION
Filed: November 19, 2007	:	TO WITHDRAW
Attorney Docket No. SAF1P011	:	FROM RECORD
	:	

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 11, 2010.

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

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 15, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SANDFORCE, INC.**
ATTENTION: EARL COHEN
12950 SARATOGA AVE
SARATOGA CA 95070-4658

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WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of
Vincent Lee JOHNSON, et al
Application No. 11/942,661
Filed: November 19, 2007
Attorney Docket No. 47852-P001US

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 11, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Samuel A. Udovich on behalf of the attorneys of record associated with Customer No. 61060.

The attorneys of record associated with Customer No. 61060 have been withdrawn.

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

The correspondence address has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: VINCENT LEE JOHNSON
25602 HAZY HOLLOW
SAN ANTONIO, TX 78255

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,681	11/19/2007	David Salesin	300301.05	2046

27662 7590 05/03/2010

MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93036

EXAMINER	
HUYNH, THU V	

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
05/03/2010	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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MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 Esplanade Drive
Suite 800
Oxnard CA 93036

In re Application of:
SALESIN, David et al.
Application No. 11/942,681
Filed: November 19, 2007
For: A USER INTERFACE FOR ADAPTIVE DOCUMENT LAYOUT VIA MANIFOLD CONTENT

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on February 11, 2008, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 7-10, 15 and 16 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 was filed with the required fee and was filed with three (3) copies of color drawings of Figures 7-10, 15 and 16. The amendment to the specification filed on February 11, 2008 includes the required notification described above.

Accordingly, the petition is **GRANTED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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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.
11/942,682	11/19/2007	Dragan Nebrigic	M088.P-005	2049

84943 7590 05/21/2010

Maxwell Technologies, Inc. (OPLF)
9244 Balboa Avenue
San Diego, CA 92123

EXAMINER	
FANTU, YALKEW	
ART UNIT	PAPER NUMBER
2858	

NOTIFICATION DATE	DELIVERY MODE
05/21/2010	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):

docket-oppedahl@oppedahl.com
USPTO_84943@Maxwell.com

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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Maxwell Technologies, Inc. (OPLF)
9244 Balboa Avenue
San Diego CA 92123

In re Application of
NEBRIGIC et al
Application No.: 11/942,682
Filed: 19 November 2007
Attorney Docket No.: M088.P-005
For: ACTIVE VOLTAGE MANAGEMENT SYSTEM FOR ENERGY STORAGE DEVICE

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PCT 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 PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(d), filed 22 April 2010, to make the above-identified application special.

The request and petition are **DISMISSED**.

Discussion

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

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VIII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof, a statement that the English translation is accurate, if the claims are not in the English language and identify and explain why the claim(s) is/are not subject to any observation described in Box VIII;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

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

(6) Applicant must submit a copy of the latest international work product from the PCT application indicating that the claim(s) have novelty, inventive step, and industrial applicability

along with an English translation thereof and a statement that the English translation is accurate if the latest international work product is not in the English language;

(7) 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; and

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

Conditions (2-8) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (1).

Regarding the requirement of condition (1), U.S. application 11/942,682 does not have an eligible relationship to one or more PCT applications where the ISA or IPEA was the JPO, EPO, or USPTO. The ISA for PCT/US07/85143 was KIPO. Accordingly, the US application is not eligible for the PCT-PPH pilot program.

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

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PCT.652. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

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.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/942,682	11/19/2007	Dragan Nebrigic	M088.P-005	2049

84943 7590 06/10/2010

Maxwell Technologies, Inc. (OPLF)
9244 Balboa Avenue
San Diego, CA 92123

EXAMINER	
FANTU, YALKEW	

ART UNIT	PAPER NUMBER
2858	

NOTIFICATION DATE	DELIVERY MODE
06/10/2010	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):

docket-oppedahl@oppedahl.com
USPTO_84943@Maxwell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Maxwell Technologies, Inc. (OPLF)
9244 Balboa Avenue
San Diego CA 92123

In re Application of
NEBRIGIC et al
Application No.: 11/942,682
Filed: 19 November 2007
Attorney Docket No.: M088.P-005
For: ACTIVE VOLTAGE MANAGEMENT SYSTEM FOR ENERGY STORAGE DEVICE

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PCT 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 PCT Patent Prosecution Highway (PCT-PPH) pilot program and the petition under 37 CFR 1.102(d), filed 22 April 2010 and renewed on 03 June 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications where the ISA or IPEA are the JPO, EPO, KIPO, or USPTO;

(2) At least one claim in the PCT application has novelty, inventive step, and industrial applicability and must be free of any observations in Box VIII in the latest work product in the international stage or applicant must identify and explain why the claim(s) is/are not subject to the observation in Box VII;

(3) Applicant must submit a copy of the claim(s) from the PCT application(s) that have novelty, inventive step, and industrial applicability along with an English translation thereof and a statement that the English translation is accurate;

(4) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claim(s) that have novelty, inventive step, and industrial applicability in the PCT application(s);

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

(6) Applicant must submit a copy of the latest international work product from the PCT application containing the claim(s) that have novelty, inventive step, and industrial applicability

along with an English translation thereof and a statement that the English translation is accurate;

(7) 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; and

(8) 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.

The renewed petition was filed subsequent to start date of the PCT-PPH pilot with KIPO and is being considered as the petition under the agreement.

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 once this application's formality reviews have been completed.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Rodrigo Bahia De Cerqueira Viana, et al. :
Application No. 11/942,686 :
Filed: November 19, 2007 :
Attorney Docket No. 14949-009002 :

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 14, 2008.

The request is **APPROVED**.

A review of the file record indicates that Fish & Richardson, PC: (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, Fish & Richardson 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 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) the intervening assignee of the entire interest. 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.

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RODRIGO BAHIA DE CERQUEIRA VIANA
RG 5172341 – CPF 785664606-34
RUA PROF. AZEVEDO MARQUES, 15/908
RIO DE JANEIRO, BRAZIL

cc: TIM CELULAR SA
2601 SOUTH BAY SHORE
SUITE 1250
MAIMI, FL 33133

Receipt date: 11/19/2007

11942698 - GAU: 2827

PTO/SB/08a (05-07)
Approved for use through 09/30/2007. OMB 0651-0031
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Not for submission under 37 CFR 1.99)

Application Number	11/942,698
Filing Date	
First Named Inventor	Tung-Chen Kuo
Art Unit	N/A 2827
Examiner Name	N/A Thong Le
Attorney Docket Number	REAP0332USA

U.S.PATENTS

Remove

Examiner Initial*	Cite No	Patent Number	Kind Code[1]	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
/TL/	1	6529424		2003-03-04	Koutsoures ~~Koninklijke Philips Electronics N.V.~~	
/TL/	2	6940768		2005-09-06	Dahlberg, et al. ~~Agere Systems Inc. (Allentown, PA)~~	
/TL/	3	6401213		2002-06-04	Jeddeloh ~~Micron Technology, Inc. (Boise, ID)~~	
/TL/	4	6316980		2001-11-13	Vogt, et al. ~~Intel Corporation (Santa Clara, CA)~~	

If you wish to add additional U.S. Patent citation information please click the Add button. Add

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/TL/						

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Examiner Initial*	Cite No	Foreign Document Number[3]	Country Code[2] i	Kind Code[4]	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear	T[5]

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W. RIYON HARDING
INTERNATIONAL BUSINESS MACHINES CORPORATION
1000 RIVER STREET
ESSEX JUNCTION VT 05452

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NOV 1 8 2008

In re Application of	:	
Juergen Koehl et al	:	
Application No. 11/942,744	:	DECISION ON PETITION
Filed: November 20, 2007	:	
Attorney Docket No. DE920060034US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice mailed December 13, 2007.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The reply (Replacement Drawings) to the Notice mailed December 13, 2007, is accepted as having been unintentionally delayed.

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

The change of address submitted on September 8, 2008 is incomplete.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

IBM MICROELECTRONICS
INTELLECTUAL PROPERTY LAW
1000 RIVER STREET
972 E
ESSEX JUNCTION, VT 05452

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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 10064
MCLEAN, VA 22102-8064

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of
Juergen Koehl, et al.
Application No. 11/942,744
Filed: November 20, 2007
Attorney Docket No. DE9200060034US1

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed May 5, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign European Application No. EP06124364, filed November 20, 2006.

The petition is **DISMISSED**.

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

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

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

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

Further the petition cannot be approved because there is an improper incorporation by reference statement.

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).

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

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

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

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

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

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Jeffrey Dean Lindsay	: DECISION ON REQUEST FOR
Patent Number	: 7621026	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/942,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2007	: 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

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.
11/942,902	11/20/2007	Hideyuki Kato	2635-540	2489

7590 11/19/2009

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

EXAMINER	
STERN, JACOB R	

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
11/19/2009	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: 11/20/2009 [illegible]

Credit Card Refund Total: $510.00

[illegible]

Adjustment date: 11/20/2009 NFARMER
12/07/2007 CNGUYEN2 00000071 11942902
02 FC:1111 -510.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 04/22/2010

Applicant	: William J. Bolosky	: DECISION ON REQUEST FOR
Patent Number	: 7668906	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/942,973	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **11** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

RABIN & BERDO, PC
1101 14TH STREET NW, SUITE 500
WASHINGTON, DC 20005

MAILED

NOV 04 2009

OFFICE OF PETITIONS

In re Application of :
Min Hyung CHO, et *al.* :
Application No. 11/943,031 : DECISION GRANTING PETITION
Filed: November 20, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SHI-117** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 16, 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 is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Ms. Alun L. Palmer 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. If Ms. Schiller desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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

This application is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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

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

Paper No.

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JUL 26 2010

OFFICE OF PETITIONS

In re Application of :
Li et al. :
Application No. 11/943,042 : DECISION ON PETITION
Filed: November 20, 2007 : PURSUANT TO
Attorney Docket No. 072032 : 37 C.F.R. § 1.137(B)
Title: METHOD OF FORMING A :
MAGNETIC TUNNEL JUNCTION :
STRUCTURE

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 24, 2010, 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 within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed July 24, 2009, which set a shortened statutory period for reply of three months. An after-final amendment was received on September 17, 2009, and an advisory action was mailed on October 1. 2009. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on October 25, 2009. A notice of abandonment was mailed on March 2, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, both a notice of appeal and the associated fee, a Pre-Appeal Brief Request for a Panel Review, 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 Technology Center will be notified of this decision. The Technology Center will then notify the Technology Center Art Unit supervisor of the examiner of record of this decision, so that a panel of examiners experienced in the field of technology can be designated, to review the applicant's remarks and the examiner's rejections.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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 that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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.
11/943,061	11/20/2007	Tsukasa Maruyama	21713-00084-US1	2769

30678 7590 04/22/2009

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

EXAMINER	
THOMAS, ERIC W	

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
04/22/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

In re Application of
Tsukasa MARUYAMA, et al.

Application No.: 11/943,061
Filed: 11/20/2007
Attorney Docket No.: 21713-00084-US1

For: ELECTRODE FOR CAPACITOR AND ELECTRIC DOUBLE LAYER CAPACITOR USING THE SAME

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 19 February 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and

b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then 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 program and petition the requirements (1), (2), (4), (5) and (7), above. This request failed to meet the requirements (3), and (6), above.

Regarding the requirements (3) above, all the claims in the U.S. application do not sufficiently correspond to the allowable/patentable claims in the JPO application. Specifically, claim 7, includes the limitation, "and an interphase transfer catalyst" that is not found in the corresponding allowable/patentable claim 4 in the JPO application.

Regarding the requirements (6) above, a complete copy of the WIPO document WO 2005/035626 cited by the JPO examiner in the JPO office action has not been provided. To date the USPTO has only received the title/abstract page and page one WIPO document WO 2005/035626.

A successful response to this dismissal must include:

An amendment to claim 7 cancelling the limitation, "and an interphase transfer catalyst" and:

A complete copy of the WIPO document WO 2005/035626.

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

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

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

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

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

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.
11/943,061	11/20/2007	Tsukasa Maruyama	21713-00084-US1	2769

30678 7590 06/22/2009
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

EXAMINER	
THOMAS, ERIC W	

ART UNIT	PAPER NUMBER
2831	

MAIL DATE	DELIVERY MODE
06/22/2009	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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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

In re Application of
Tsukasa MARUYAMA, et al.

Application No.: 11/943,061
Filed: 11/20/2007
Attorney Docket No.: 21713-00084-US1

For: ELECTRODE FOR CAPACITOR AND ELECTRIC DOUBLE LAYER CAPACITOR USING THE SAME

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 19 February 2009, and request for reconsideration to participate in the Patent Prosecution Highway (PPH) program, filed 13 May 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application 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 program and petition the requirements (1) through (7), above.

CONCLUSION

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.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUITE 1800
CHICAGO IL 60606-1615

COPY MAILED

SEP 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Kyoung Hoon Yang et al.	:	
Application No. 11/943,074	:	DECISION ON PETITION
Filed: November 20, 2007	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
0005474.0029 (PF-E0125)	:	
Title: MULTIPLEXER CIRCUIT	:	

This is a decision on the petition filed September 10, 2008, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

Receipt of 12 pages of replacement drawings is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed December 12, 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 February 13, 2008. A notice of abandonment was mailed on August 22, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

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

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

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

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has stated that the notice was not received at the correspondence address of record and that a search of the file jacket and docket records indicates that the

Office action was not received. Petitioner has further included a copy of a print-out of his firm's master docket, which also constitutes a copy of the record used by the practitioner where the non-received Office action would have been entered had it been received.

However, Petitioner has failed to either **describe the docketing system** that Petitioner has in place or establish that it is **sufficiently reliable.**

Moreover, Petitioner has not stated that a **search of the application contents** indicates that the Office action was not received.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior 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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Paper No.

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COPY MAILED
OCT 27 2008

In re Application of	:	
Kyoung Hoon Yang et al.	:	
Application No. 11/943,074	:	DECISION ON RENEWED
Filed: November 20, 2007	:	PETITION PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
0005474.0029 (PF-E0125)	:	
Title: MULTIPLEXER CIRCUIT	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed October 2, 2008, requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed December 12, 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 February 13, 2008. A notice of abandonment was mailed on August 22, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on September 10, 2008, and was dismissed via the mailing of a decision on September 26, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

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

held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

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

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

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With the original petition, Petitioner indicated that the notice was not received at the correspondence address of record and that a search of the file jacket and docket records indicated that the Office action was not received. Petitioner further included a copy of a print-out of his firm's master docket, which also constitutes a copy of the record used by the practitioner where the non-received Office action would have been entered had it been received.

The original petition was dismissed for failing to include a description of the docketing system, failing to establish the reliability of the same, and for failing to indicate that a search of the application contents indicates that the Office action was not received.

With this renewed petition, Petitioner has indicated that the application contents were searched and the relevant Office communication was not received. Petitioner has further indicated that his firm uses a computerized docketing system, and:

> "The docketing software automatically placing due diligence[1] on each newly filed applications (sic) and automatically calculates future deadlines and reminders based on the action received by the Patent Office."
>
> Renewed petition, page 2.

As such, it is clear that his docketing software both calculates deadlines and generates reminders. However, the record does not support a finding that this system is sufficiently reliable, as the petition is silent as to any distribution of these reminders to the responsible attorneys/agents.

On second renewed petition, Petitioner will need to:

- **Indicate whether these reminders are distributed to the responsible attorneys/agents**, and
- **Clarify the meaning of "placing due diligence on each newly filed application."**

1 The meaning of the language "placing due diligence on each newly filed application" is not understood by the undersigned.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

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SUITE 1800
CHICAGO IL 60606-1615

COPY MAILED

DEC 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Kyoung Hoon Yang et al.	:	
Application No. 11/943,074	:	DECISION ON SECOND RENEWED
Filed: November 20, 2007	:	PETITION PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
0005474.0029 (PF-E0125)	:	
Title: MULTIPLEXER CIRCUIT	:	

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.181(a), filed November 3, 2008, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed December 12, 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 February 13, 2008. A notice of abandonment was mailed on August 22, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on September 10, 2008, and was dismissed via the mailing of a decision on September 26, 2008.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on October 2, 2008, and was dismissed via the mailing of a decision on October 27, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition

to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

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

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

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With the original petition, Petitioner indicated that the notice was not received at the correspondence address of record and that a search of the file jacket and docket records indicated that the Office action was not received. Petitioner further included a copy of a print-out of his firm's master docket, which also constitutes a copy of the record used by the practitioner where the non-received Office action would have been entered had it been received.

The original petition was dismissed for failing to include a description of the docketing system, failing to establish the reliability of the same, and for failing to indicate that a search of the application contents indicates that the Office action was not received.

With the renewed petition, Petitioner indicated that the application contents were searched and the relevant Office communication was not received. Petitioner further indicated that his firm uses a computerized docketing system that "automatically calculates future deadlines and reminders based on the action received by the Patent Office."[1] The renewed petition was dismissed, as the record did not support a finding that these reminders are distributed to the responsible attorneys/agents. Moreover, the decision requested the clarification of a particular phrase contained in the renewed petition.

With this second renewed petition, Petitioner has clarified the meaning of the phrase "placing due diligence on each newly filed application," and has established that these reminders are distributed to the responsible attorneys/agents.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the notice of December 12, 2007 was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

---

1 Renewed petition, page 2.

The Office of Patent Application Processing (OPAP) will be notified of this decision. The replacement drawings that were received on September 10, 2008 will receive further processing in due course.

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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.
11/943,115	11/20/2007	Min-Suk Ko	678-3377	2889

7590 08/28/2009

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

EXAMINER	
BOST, DWAYNE D	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
08/28/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/02/2009 NFARMER
12/07/2007 MNGUYEN 00000006 504053 11943115
02 FC:1111 510.00 CR
04 FC:1201 420.00 CR
05 FC:1202 100.00 CR

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Alexandria, VA 22313-1450
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PEPPER HAMILTON LLP/WYETH
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Krishnan, et al.
Application No. 11/943,143
Filed: 20 November, 2007
Attorney Docket No.
AM102243/103250.17601

DECISION

This is a decision on the petition, filed on 18 February, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE: *The address on the petition is different than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.

Because the actual issue is not whether the Office action in question was received, but rather why was the Office action in question not received, Petitioner must resolve this matter on any renewed request to withdraw the holding of abandonment.

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

Petitioner's attention is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice to File Corrected Application Papers mailed on 5 June, 2008, with reply due absent extension of time on or before 5 August, 2008.

It appears that for an unknown reason the Notice in question was returned to the Office as undelivered on 20 June, 2008.

Notably, the fifteen- (15-) day period from date of mailing to date of return would have allowed more than enough time for an attempt to deliver at the address of record, rather than indicating that the Notice was returned because the mailing address was not viewable through the window in the envelope.

The application went abandoned by operation of law after midnight 5 August, 2008.

The Office mailed a Notice of Abandonment on 10 February, 2009.

On 18 February, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt, suggests a correct mailing address on the 5 June, 2008, Notice, however, in light of the difference in mailing address on the petition and correspondence address of record, and in light of the delay between mailing and return, Petitioner should make a further showing to the Office in this regard consistent with the guidance in the Commentary at MPEP §711.03(c)(I). It is noted that Petitioner filed a reply to the 5 June, 2008, Notice.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Petitioner is asked to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

Out of an abundance of caution, Applicants 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.[2]

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[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

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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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 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).

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 not to have made the showing required or do so within the time 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

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PEPPER HAMILTON, LLP
3000 TWO LOGAN SQUARE
18TH AND ARCH STREETS
PHILADELPHIA, PA 19103

---

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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Alexandria, VA 22313-1450
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400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Krishnan, et al. :
Application No. 11/943,143 : DECISION
Filed: 20 November, 2007 :
Attorney Docket No. :
AM102243/103250.17601

This is a decision on the petition, filed on 14 April, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

> ***NOTE:*** *The address on the petition is different than that of record. If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice 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.*

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners' attentions always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice to File Corrected Application Papers mailed on 5 June, 2008, with reply due absent extension of time on or before 5 August, 2008. It appeared that for an unknown reason the Notice in question was returned to the Office as undelivered on 20 June, 2008. (The fifteen- (15-) day period from date of mailing to date of return would have allowed more than enough time for an attempt to deliver at the address of record, rather than indicating that the Notice was returned because, for example, the mailing address was not viewable through the window in the envelope.)

The application went abandoned by operation of law after midnight 5 August, 2008.

The Office mailed a Notice of Abandonment on 10 February, 2009.

On 18 February, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt, suggests a correct mailing address on the 5 June, 2008, Notice, however, in light of the difference in mailing address on the petition and correspondence address of record, and in light of the delay between mailing and return, Petitioner should make a further showing to the Office in this regard consistent with the guidance in the Commentary at MPEP §711.03(c)(I). It is noted that Petitioner filed a reply to the 5 June, 2008, Notice. Because the matter was unclear as presented, the petition was dismissed on 16 March, 2009.

On 14 April, 20009, Petitioner resubmitted a petition, clarified the facts of the matter, and made the statements and showings consistent with the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

> calendar; reminder system; or the individual docket record for the application in question.[1]

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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 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.[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

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1 *See*: MPEP §711.03(c) (I)(A).

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

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).

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> 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, when it is to be made and how it is to be supported.

It appears that Petitioner has satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 10 February, 2009, Notice of Abandonment is **vacated**.

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 the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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[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).

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).

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Senior Attorney
Office of Petitions

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PHILADELPHIA, PA 19103

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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.
11/943,150	11/20/2007	Ying Li	YOR920070482US1	2945

48915 7590 02/07/2008

CANTOR COLBURN LLP-IBM YORKTOWN
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
CALDWELL, ANDREW T	

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
02/07/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CANTOR COLBURN LLP-IBM YORKTOWN
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of:
Ying LI, et al.
Serial No.: 11/943,150
Filed: November 20, 2007
Docket: YOR920070482US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR IMPROVING PLACEMENT PERFORMANCE OF MESSAGE TRANSFORMS BY EXPLOITING AGGRESSIVE REPLICATION

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 Nov 20, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 to II.4 above are considered to have been met. However, the petition fails to comply with conditions II.5 and II.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding item II.5.1 above, for database searches, Petitioner should identify whether the text search logic used was utilized in combination with the identified field of search (i.e. class 340, subclass 825; class 370, subclasses 252-254, 351, 465, and 466 and so on) or separate therefrom (i.e. the identified classes and subclasses were searched in their entirety). Unless otherwise noted, it is of the understanding that the identified classes and corresponding subclasses have been searched in their entirety. Clarification is required.

Regarding items II.5.2-5.3 above, the pre-examination search must be directed to the (instant) claimed invention and encompass all of the features of the claims, giving the claim the broadest reasonable interpretation. The search logic does not seems to include the inventive concept or features included in the in the claim language that covers the subject matter of the claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider individual features by themselves and combinations of features. The search should cover the **broadest scope** encompassed by the claims **as well as** claims of **narrow and intermediate breadth**.

Specifically, the search logic does not include the relevant search terms for claimed features such as "labeling ... stateless transformation associated with the message transformation flow graph", "determining the number of replicas... load portioning ratios", "converting the message transformation...", "data partitioning filter... partition a workload" and "consolidating each of the virtual replicas ... common message broker" of claim 1; "replicating replicable stateless transformation... load portioning ratios" of claim 4; "assigns each stateless transformations to a broker, and replicas of each stateful transformation...routed to each of its replicas" of claim 6. It is noted that these features have been identified as key features in the Detailed Explanation of Patentability by applicant to distinguishing the instant claimed subject matter from the cited prior art references deemed most closely related to the claimed invention in the Examination Support Document.

In addition, the Petitioner should also include related words or phrase such as plurals and synonyms to the above search terms. For example, the word "performance" may be covered with "perform$3 execut$4 operarat$5 implement$5 achieve$5 accomplish$5, the phrase "stateless transformation" may be covered with "event dependent" or "simple transformation".

Since the search logic does not include the relevant search terms mentioned above, the alleged patentable features and concept appear to have not been searched. The Petitioner is advised to review the all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the preexamination search covers these concepts, and update the search and/or provide any clarification if deemed necessary.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and item II 6.2-6.3; the Discussion in Section 9(B) of the Accelerated Examination Support Document does not provide a detailed explanation to clearly and specifically identify the limitations in ***each claim*** (claim-by-claim mapping) that are disclosed in each reference. Rather, the Petitioner provides only the mapping of claims 1 and 5 and omits the identification of limitations of claims 2-4 and 6 in their entirety. The petitioner states in section 9(C), Detail Explanation of Patentability, that the references fails to teach the limitations of claims 4 and 6 and dependent claims 2-3 has no features that would define over the references if claim 1 was found to be unpatentable. However, it is unclear if all of the references do not disclose any of the limitation of claims 2-4 and 6, especially if the references teach any of the limitations of claims 2-3. Clarification is required.

Petitioner should review section 9(B), Identification of Limitations Disclosed by References, and section (9C), the Detail Explanation of Patentability of the Sample in view of changes and clarifications, if deemed necessary, to ensure compliance with the requirements of MPEP § 708.02(a)(I.)(I)(3) and items II 6.2-6.3 above.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and items 6.5-6.6 above, the Accelerated Examination Support Document does provide a showing of where ***each limitation of each claim*** finds support under 35 USC 112, first paragraph, in the written description of the specification. The petitioner identifies the entire Fig. 5 and paragraphs [0004] and [0045] for claim 1, it appears that the features of claim 1 are not ***separately identified*** with corresponding support in the cited portions. Similarly, the petitioner points to paragraph [0021] to support claims 2-3 and paragraph [0045] to support claims 4, 5, and 6 without particularly point out each feature of the claims and the corresponding support. Clarification and identification of support is required.

DECISION

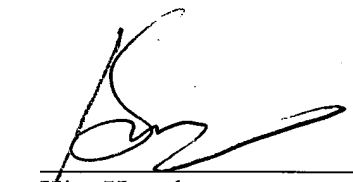
For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

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

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal

of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.



Kim Huynh,
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/943,150	11/20/2007	Ying Li	YOR920070482US1	2945

48915 7590 03/24/2008

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EXAMINER	
LEE, PHILLIP S	

ART UNIT	PAPER NUMBER
4113	

MAIL DATE	DELIVERY MODE
03/24/2008	PAPER

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

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20 CHURCH STREET
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In re Application of:
Ying LI, et al.
Serial No.: 11/943,150
Filed: November 20, 2007
Docket: YOR920070482US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR IMPROVING PLACEMENT PERFORMANCE OF MESSAGE TRANSFORMS BY EXPLOITING AGGRESSIVE REPLICATION

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

This is a decision on the renewed petition filed on Mar 06, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on Nov 20, 2007 was dismissed in the decision mailed on Feb 07, 2008.

In the decision of Feb 97, 2007, the Petitioner was requested to update the search to cover the features and concepts alleged patentable. The renewed petition provides an updated search with no new references, it is of the understanding the no new relevant reference was found from the updated search.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

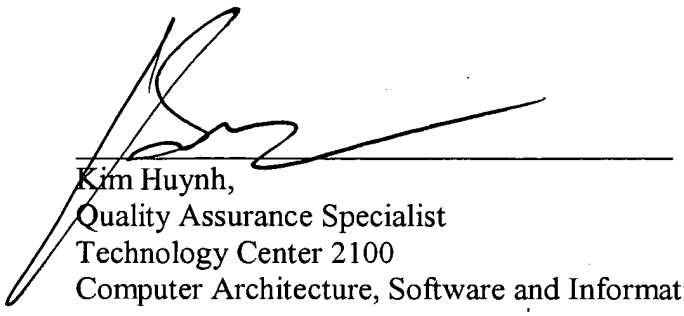
9. Proceedings Outside the Normal Examination Process:
If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated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

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

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.



Kim Huynh,
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
KEDAR N. PRASAD et al. :
Application No. 11/943,176 : DECISION ON PETITION
Filed: November 20, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **P/4205-27 V5914** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 14, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Kedar Presad attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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SUITE 800
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
McKenzie et al.	:	
Application No. 11/943,191	:	DECISION ON PETITION
Filed: November 20, 2007	:	
Attorney Docket No. 2796-103	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 18, 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 19, 2008. A Notice of Abandonment was mailed January 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 a continuation, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

Further, 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/619,053, filed November 16, 2009.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Anthony Carey :
Application No. 11/943,196 : DECISION ON PETITION
Filed: November 20, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 15148.4 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 3, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a photocopy of applicant Anthony Carey's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 3671 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 2600

HAMRE, SCHUMANN, MUELLER & LARSON P.C.
P.O. BOX 2902-0902
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In re Application of:
UEDA, HIROSHI, et al.
Serial No.: 11/943,240
Filed: November 20, 2007

Title: **DIGITAL CAMERA**

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

This is a decision on the petition filed on November 20, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II. items 5.2, 5.3, 6.2, 6.3, and 6.5.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The database searches which are to be provided under section 8(A) are not sufficient. The search logic used is overly narrow. The digital camera environment of the invention was limited to "slr and (digital adj camera)", which excludes synonyms like dslr, "single lens reflex", "through the lens", "ttl", "imager" and "imaging device", etc.. Also, a mirror in the camera has its positioning effected by the opening of a battery compartment. The search strategy used "mirror same (or adj) control" same "battery or power". The use of "control" as a necessary term is extremely limiting. This would not cover such simple variations as —controls-- or —controlling--, or any other descriptive term to describe that the mirror's positioning is changed depending on the lid of the battery compartment being open or closed. Also not searched is the key concept that the mirror positioning happens in a "live view" mode of the camera.

Regarding the requirement in item 6.2 above, the the Accelerated Examination Support Document is deficient because the section titled "Identification of the Limitations of the Claims Disclosed by the Cited References" fails to provide an identification of all claim limitations that are disclosed by ***each*** cited reference.

Regarding the requirement in item 6.3 above, the Accelerated Examination Support Document is deficient because the section titled " Detailed Explanation of Patentability of the Claims over the Cited References" fails to provide a "detailed explanation of how each of the claims are patentable over ***each*** of the references cited with particularity required by 37 CFR 1.111(b) and (c)" (emphasis added).

Specifically, with respect to items 6.2 and 6.3 above, petitioner does not provide an identification of claimed limitations and/or a detailed explanation of patentability of all claims (including the dependent claims) ***with respect to each reference*** and if claims do not stand or fall together, how each claim (including the dependent claims) is patentably distinct over the cited prior art in combination with the other cited references. Petitioner has only argued the patentability of the claims in regard to two of the seven cited references in the IDS filed with the accelerated examination support document (US 2004/0155976 and JP 2005020199). *Therefore, any request for reconsideration must provide a detailed explanation in regard to each of the claims with respect to the other five cited references as set forth in items 6.2 and 6.3 above.*

Regarding the requirement in item 6.5 above, the "Accelerated Examination Support Document", is deficient because it fails to include a showing of where ***each limitation of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of ***each benefit application***. As set forth supra, "*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***". It is noted that the instant application claims benefit to parent application 10/567,076 and foreign priority to JP 2005-351936. Therefore, an updated accelerated examination support document must be provided which shows where each limitation of the claims finds support in each benefit application.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

United States Patent and Trademark Office

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HAMRE, SCHUMANN, MUELLER & LARSON P.C.
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In re Application of:
UEDA, HIROSHI. et al,
Serial No.: 11/943,240
Filed: November 20, 2007

Title: **DIGITAL CAMERA**

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 January 18, 2008 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

All of the requirements to correct the deficiencies outlined in the petition decision mailed December 20, 2007 have been met.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
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In re Application of:
RATZLAFF, EUGENE H. et al.
Serial No.: 11/943,260
Filed: November 20, 2007

Title: **HANDWRITING RECOGNIZER USER INTERFACE METHODS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 20, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II. items 6.1 and 6.5.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 6.1 above, applicant filed two information disclosure statements (IDS) with the accelerated examination support document (AESD), but failed to clearly identify which IDS is in support of the petition and which IDS is not in support of the petition. It is presumed the IDS filed that identifies two references is in support of the AESD, and the IDS that identifies 27 references is not in support of the AESD. The IDS that identifies 27 references will be treated as a representation by applicant to the USPTO that no reference submitted in this IDS is deemed closer to the subject matter of at least one claim than the references provided in the AESD. If applicant deems any references found after the initial filing or in this IDS with 27 references to be closer to the subject matter of at least one claim than the references provided in the AESD, then the applicant needs to supplement the AESD to account for these references.

Regarding the requirement in item 6.5 above, the Accelerated Examination Support Document is deficient because section 9(E) fails to include a showing of where ***each limitation of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of the specification. Petitioner provides a general statement that support is found in Figures 1-11 and paragraphs [0021] – [0040] but fails to include a showing where each limitation of each claim finds support. Clarification is required.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Eugene H. Ratzlaff, et al.	**Examiner:**	Unassigned
Serial No:	11/943,260	**Art Unit:**	Unassigned
Filed:	Herewith	**Docket:**	YOR920060677US1 (20292)
For:	HANDWRITING RECOGNIZER USER INTERFACE METHODS	**Dated:**	January 18, 2008
Conf. No.:	**3139**		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Sir:

This paper is submitted in response to the Decision on Petition to Make Special mailed December 18, 2007 in reference to the above-captioned application. Petitioner submits the attached revised Accelerated Examination Support Document, which has the original mail date thereon. The attached Accelerated Examination Support Document is revised to comply with the requirements pursuant to 37 CFR §1.102(d) and "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).

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being deposited with the United States Patent & Trademark Office via Electronic Filing through the United States Patent and Trademark Office e-business website, on the date shown below.

Dated: January 18, 2008

Michael A. Petrocelli

United States Patent and Trademark Office

~~Commissioner for Patents~~
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

FEB 19 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
RATZLAFF, EUGENE H. et al,
Serial No.: 11/943,260
Filed: November 20, 2007

Title: **HANDWRITING RECOGNIZER USER INTERFACE METHODS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 18, 2008 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

All of the requirements to correct the deficiencies outlined in the petition decision mailed December 18, 2007 have been met.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election

without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/943,288	11/20/2007	Scott Costa	2725-45300	3190

7590 07/11/2008

Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER	
BATES, ZAKIYA W	

ART UNIT	PAPER NUMBER
3676	

MAIL DATE	DELIVERY MODE
07/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/11/2008 0030058312

Credit Card Refund Total: $1980.00

Am Exp..: XXXXXXXXXXX2007

Adjustment date: 07/11/2008 NFARMER
11/21/2007 INTEFSW 00001970 11943288
02 FC:1111 -510.00 OP
05 FC:1201 -1470.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/943,307	11/20/2007	Scott Costa	2725-45400	3229

7590 07/11/2008

Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER	
BATES, ZAKIYA W	

ART UNIT	PAPER NUMBER
3676	

MAIL DATE	DELIVERY MODE
07/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Am Exp.: XXXXXXXXXXXX2007

Credit Card Refund Total: $8598.00

Refund Ref: 07/11/2008 00300583111

Adjustment date: 07/11/2008 NFARMER
11/21/2007 INTEFSW 00002139 11943307
02 FC:1111 -510.00 OP
06 FC:1201 -5880.00 OP

Adjustment date: 07/11/2008 NFARMER
12/11/2007 MTEKLEMI 00000024 11943307
01 FC:1202 -2200.00 OP

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7394 WILDFLOWER WAY
CUPERTINO, CA 95014

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of Xie et al. :
Application No. 11/943,313 : Decision on Petition
Filing Date: November 20, 2007 :
Attorney Docket No. Vimicro-121 :

This is a decision on the petition under 37 CFR 1.181 filed September 15, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice to File Missing Parts of Nonprovisional Application on December 21, 2007. The Notice set an extendable two-month period for reply.

The Office did not receive a reply to the December 21, 2007. As a result, a Notice of Abandonment was mailed September 9, 2009.

The instant petition was filed six days after the Office mailed the Notice of Abandonment.

Petitioner asserts the Notice to File Missing Parts was never received. The Office has considered the evidence submitted by petitioner and determined the showing of non-receipt is sufficient to withdraw the holding of abandonment.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Patent Application Processing will be informed of the instant decision and will take steps to 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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LOGINOV & ASSOCIATES, PLLC
10 WATER STREET
CONCORD, NH 03301

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OFFICE OF PETITIONS

In re Application of :
David Ganz, et al. :
Application No. 11/943;331 : DECISION ON PETITION
Filed: November 20, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 091/0001 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 11, 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 certification from William A. Loginov that he is in possession of evidence showing applicant David Ganz age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred to the Office of Patent Application Processing to await the processing of the reply to the Notice to File Missing Parts of Non-provisional Application (Notice) mailed May 12, 2008. This application will be accorded "special" status once pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Forrest Wayne Briese	: DECISION ON REQUEST FOR
Patent Number	: 7639000	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/943,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2007	: 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/943,443	11/20/2007	Hurmat Rudmann	HEP-001CP	3497

42532 7590 01/11/2008

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

EXAMINER	
ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
01/11/2008	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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Commissioner for Patents
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Alexandria, VA 22313-1450
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CST

1-11-08

In re application of :
Harmut Rudmann et al :
Serial No. 11/943,443 : DECISION ON PETITION
Filed: November 20, 2007 : TO MAKE SPECIAL
For: MANUFACTURING OPTICAL ELEMENTS :

This is a decision on the Petition to Make Special filed on November 20, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **GRANTED.**

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

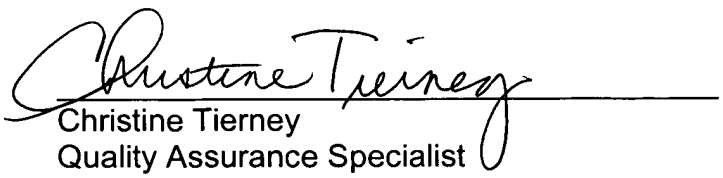
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.



Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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JONATHAN A. SMALL
JAS IP CONSULTING
343 2ND STREET
SUITE F
LOS ALTOS CA 94022

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of	
Eric Shrader, Uma Srinivasan, Clark Crawford, and Scott Limb	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)
Application No.11/943,453	
Filed: November 20, 2007	
Title of Invention: Method For Obtaining Controlled Sidewall Profile in Print-Patterned Structures	

This is in response to the petition under 37 CFR 1.47(a), filed November 20, 2007.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Clark Crawford has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was presented to non-signing inventor. Petitioner has provided evidence of the non-signing inventor's explicit refusal to execute 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.

The address provided in the application data sheet is presumed to be non-signing inventor's last known address. If this is not correct petitioner is obligated to inform the Office.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Patent Application Processing for appropriate action in the normal course of business. .

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MICHAEL J. BUCHENHORNER
8540 S.W. 83 STREET
MIAMI, FL 33143

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SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Gilchrist et al.	:	
Application No. 11/943,469	:	DECISION ON PETITION
Filed: November 20, 2007	:	
Attorney Docket No: VAI2007018	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 19, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2008. A Notice of Abandonment was mailed September 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a signed Oath/Declaration, Replacement Drawings and the $65.00 late surcharge; (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

/Liana Walsh/
Liana Walsh
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/943,472	11/20/2007	Hurmat Rudmann	HEP-002CP	3547

42532 7590 01/11/2008

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

EXAMINER	
ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
01/11/2008	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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CST

1-11-08

In re application of :
Harmut Rudmann et al :
Serial No. 11/943,472 : DECISION ON PETITION
Filed: November 20, 2007 : TO MAKE SPECIAL
For: MANUFACTURING MINIATURE :
STRUCTURED ELEMENTS WITH TOOL :
INCORPORATING SPACER ELEMENTS :

This is a decision on the Petition to Make Special filed on November 20, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **GRANTED.**

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/943,476	11/20/2007	Hurmat Rudmann	HEP-003CP	3553

42532 7590 01/11/2008

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

EXAMINER	
ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
01/11/2008	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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Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

CST

1-11-08

In re application of :
Harmut Rudmann et al :
Serial No. 11/943,476 : DECISION ON PETITION
Filed: November 20, 2007 : TO MAKE SPECIAL
For: METHOD AND TOOL FOR :
MANUFACTURING OPTICAL ELEMENTS :

This is a decision on the Petition to Make Special filed on November 20, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **GRANTED.**

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

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   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

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   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

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   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

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    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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PCE INDUSTRY, INC.
ATT. STEVEN REISS
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY CA 91789

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OFFICE OF PETITIONS

In re Application of	:	
Wen-Xiang Zhang, et al.	:	
Application No. 11/943,505	:	DECISION GRANTING PETITION
Filed: November 20, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. US15524	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Armstrong et al. :
Application No. 11/943,532 : ON PETITION
Filed: November 20, 2007 :
Attorney Docket No. 89188.0253 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 March 20, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the three (3) month extension of time filed September 21, 2009, via certificate of mailing, the date of abandonment of this application is September 22, 2009. A Notice of Abandonment was mailed October 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114, (2) the petition fee of $810, 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.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 1641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

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975 PAGE MILL ROAD
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Application of :
LEIVERS, Martin R. et al. :
Application No. 11/943,535 : DECISION ON PETITION
Filed: November 20, 2007 : TO WITHDRAW
Attorney Docket No. **355491-3601** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 04, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Antoinette F. Konski on behalf of all attorneys of record who are associated with customer No. 38706. 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 Martin R. Leivers at the address indicated below.

There is an outstanding Office action mailed August 13, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MARTIN ROBERT LEIVERS**
91 CENTRAL AVE., #103
SAN FRANCISCO, CA 94117

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304-1013

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
LEIVERS, Martin R. et al. :
Application No. 11/943,545 : DECISION ON PETITION
Filed: November 20, 2007 : TO WITHDRAW
Attorney Docket No. **355491-3702(G106US)** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 04, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Antoinette F. Konski on behalf of all attorneys of record who are associated with customer No. 77977. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Martin R. Leivers 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: **MARTIN ROBERT LEIVERS**
91 CENTRAL AVE., #103
SAN FRANCISCO, CA 94117

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/943,559	11/20/2007	Joo-Yul Lee	59088/P849	3704

7590 11/03/2009
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
11/03/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment Date: 11/04/2009 BPOWELL
11/21/2007 [illegible] 09004203 031728 [illegible]
[illegible] 510.00 CR

[illegible] BPOWELL
[illegible] 11/[illegible]
[illegible] CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SUITE 180
MOUNTAIN VIEW CA 94040

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OFFICE OF PETITIONS

In re Application of	:	
Yan et al.	:	
Application No. 11/943,581	:	ON PETITION
Filed: November 20, 2007	:	
Attorney Docket No. MT-CN-0016US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 4, 2008 and October 6, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (1). A total of $2780.00 was charged to petitioner's credit card and applied to the following fees: 1) $1620.00 petition fee, 2) $330.00 basic filing fee, 3) $130.00 late surcharge, 4) $540.00 search fee, and 5) $160.00 placed in a holding. The remaining $160.00 was meant for the $220.00 examination fee, but was $60.00 short. Accordingly, an additional $60.00 is required for revival.

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IVY Y. MEI
800 EL CAMINO REAL W.
SUITE 180
MOUNTAIN VIEW CA 94040

MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Yan et al. :
Application No. 11/943,581 : ON PETITION
Filed: November 20, 2007 :
Attorney Docket No. MT-CN-0016US :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the remainder of the examination fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Patent Application Processing for further processing. Thereafter, the application will be referred to Technology Center AU 2614 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

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MAY 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Ronald D. Hoover	:	DECISION ON PETITION
Application No. 11/943,629	:	TO WITHDRAW
Filed: November 21, 2007	:	FROM RECORD
Attorney Docket No. 27343.00.0164	:	

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed February 9, 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

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OFFICE OF PETITIONS

In re Application of :
Tony W. Liang, et al. :
Application No. 10/943,640 : DECISION ON PETITION
Filed: September 17, 2004 : TO WITHDRAW
Attorney Docket No. 415072002700 : FROM RECORD
:

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 6, 2009.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVENS & SHOWALTER LLP
7019 CORPORATE WAY
DAYTON, OH 45459-4238

Mail Date: 04/21/2010

Applicant	: Peter Quang Tran	: DECISION ON REQUEST FOR
Patent Number	: 7648614	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/943,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **86** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

MAILED

FEB 04 2009

OFFICE OF PETITIONS

Applicant: Millward
Appl. No.: 11/943,664
Filing Date: November 21, 2007
Title: SYSTEMS AND METHODS FOR FORMING METAL-CONTAINING LAYERS USING VAPOR DEPOSITION PROCESSES
Attorney Docket No.: 150.0142013
Pub. No.: US 2008/0064209 A1
Pub. Date: March 13, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 4, 2008, for the above-identified application.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,462,559 on December 9, 2008 the request is deemed moot.

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091124

DATE : July 10, 2009

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7,544,615

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Changes are approved. Only apparent issue with the change to claim 24 is the inclusion of a hit return after "comprising:".

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of :
Takuo Tamura, et al. :
Application No. 11/943,690 : DECISION ON PETITION
Filed: November 21, 2007 :
Attorney Docket No. 501.4815X00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

This application became abandoned for failure to submit corrected formal drawings on or before December 8, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 8, 2009. Accordingly, the date of abandonment of this application is December 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/943,744	11/21/2007	Shikui HUANG	CU-6237 RJS	4028

7590 07/30/2009

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER	
TSANG, FAN S	

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
07/30/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 08/04/2009 BPOWELL
11/21/2007 INTEFSW 00006571 120400 11943744
02 FC:1111 510.00 CR
04 FC:1203 370.00 CR

Refund Ref:
08/04/2009 0030072907

Credit Card Refund Total: $1710.00

Exp..: XXXXXXXXXXX1052

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MAR 24 2010

OFFICE OF PETITIONS

SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA AZ 85201

In re Application of :
Sheng-Chih LIN JONES et al. :
Application No. 11/943,799 : DECISION ON PETITION
Filed: November 21, 2007 :
Attorney Docket No. CUI.12847 :

This is a decision on the petition, under 37 CFR 1.137(b) filed on January 19, 2010, 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 May 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of $ 1620; and (3) a proper statement of unintentional delay.

The prosecution which has occurred between the date of abandonment and the mail date of the petition decision is hereby ratified.

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

Application No. 11/943,799

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

This application is being referred to Technology Center AU 2819 for further processing.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed: June 10, 2008

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

Applicant: Roschak
Appl. No.: 11/943,881
Filing Date: November 21, 2007
Title: METHODS AND DEVICES FOR ACCESSING THE HEART
Attorney Docket No.: RSEDNZ00100
Pub. No.: US 2008/0115793 A1
Pub. Date: May 22, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 4, 2008, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. In addition, the applicant did not provide a copy of the application, but instead provided a copy of the patent application publication. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 06/11/2008 KKING1
06/05/2008 INTEFSW 00000175 11943881
01 FC:1504 -300.00 DP

Refund Ref:
06/11/2008 0030056913

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXXX1012

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HARMAN-BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Strassenburg-Kleciak et al.	:	DECISION ON PETITION
Application No. 11/943,892	:	TO WITHDRAW
Filed: November 21, 2007	:	FROM RECORD
Attorney Docket No. P06045US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on July 6, 2009 the power of attorney to Brinks Hoffer Gilson & Lione 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: The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granada Hills CA 91344

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVE M CLEMMONS
33150 SCHOOLCRAFT, SUITE 207
LIVONIA MI 48150

COPY MAILED

DEC 13 2007

OFFICE OF PETITIONS

In re Application of :
MORANDO, Jorge A. :
Application No. 11/943,905 : DECISION ON PETITION
Filed: November 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **MJV-137-A** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 Jorge A. Morando'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 Patent Application Processing at 571-272-4000.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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M. REZA BARATY
1081 AYSHIRE DRIVE
BURNABY, B.C V5A 3Z9 CA

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JAN 13 2010

In re Application of	:	
BARATY, Mohammad Reza	:	DECISION ON PETITION
Application No. 11/943,960	:	TO MAKE SPECIAL UNDER
Filed: November 21, 2007	:	THE GREEN TECHNOLOGY
Attorney Docket No. N/A	:	PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed December 16, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth in 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 items 1, 2, 3, 5, 6, 7, and 9 above for the reasons as set forth in more detail below.

In regard to item 1, this application has been classified (USPC 701/33) in an area that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not be 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 else where. 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.

In regard to item 2, a review of the application claims has been made for the purposes of determining the number of claims contained therein. This application contains more than 3 independent claims and/or more than 20 total claims. As set forth in the Notice, if the application contains more than 3 independent claims or more than 20 total claims, it will not be eligible to participate in the "Pilot Program for Green Technologies Including Greenhouse Gas Reduction."

In regard to item no. 3, the application includes multiple dependent claims (i.e., claims 17-22 are all multiple dependent claims) and thus does not meet the requirements as set forth in the Notice.

In regard to item 5, the instant invention relates to "METHODS, APPARATUS, AND COMPUTER MEDIA AND SIGNALS FOR REDUCING GHG BY IMPOSING RESTRICTIONS ON EXCESSIVE USAGES OF VEHICLES AND OTHER AIR, SEA, AND ENVIRONMENT POLLUTING MACHINERY AND EQUIPMENTS". The instant petition is accompanied by the statement on the basis for the special status, i.e., the invention is "mainly for reducing emission of GHG by transportation means which are responsible for more than 40% of GHG in the air." As stated in section III of the Notice, applicant must also provide a statement pertaining to the materiality standard if the application disclosure is not clear on its face as to the materiality of the basis for the special status of the invention. This petition lacks such a statement and it is not agreed that the application on its face meets the materiality standard.

In regard to item 6, a statement has not been provided by petitioner that states that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is

made by the examiner as required by the Notice. Accordingly, the petition cannot be granted without such a statement.

In regard to item 7, the present petition to make special was not filed electronically (i.e., it appears to have been filed by facsimile transmission and by regular mail). Thus it is dismissed for not complying with the Notice.

In regard to item 9, it is noted that the petition to make special must be accompanied by a request for early publication and the publication fee set forth in 37 CFR 1.18(d) as set forth at numeral 7 in the Requirements section of the Notice. Since there was no request for early publication, no publication fee was included, and there was no authorization given for charging this fee, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Gay Ann Spahn at 571-272-8011.

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 3664 for action in its regular turn.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of :
KAUFMAN, et al. :
Application No. 11/943,964 : DECISION ON PETITION
Filed: November 21, 2007 : TO WITHDRAW
Attorney Docket No. **8729.0019** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by J. Douglas Wells 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: **THE FIZZY FRUIT COMPANY**
1001 SW FIFTH AVENUE, SUITE 1100
PORTLAND, OREGON 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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SEP 24 2008

In re Application of	:	
James R, Edgar	:	
Application No.: 11/943989	:	DECISION ON
Filing or 371(c) Date: 11/21/2007	:	PETITION
Attorney Docket Number: 200090.00040	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Official USPTO Communication," filed August 29, 2008. The petition is properly treated under 37 CFR 1.181(a).

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.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed December 12, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned February 13, 2008. A Notice of Abandonment was mailed August 21, 2008.

Petition under 37 CFR 1.181

Applicant files the instant petition and asserts that the Notice was not received. In support of this assertion, Applicant files a copy of the Docket record for this case, and a copy of the docket print-out showing all USPTO matters that were due two (2) months from the mail date of the Notice, on February 12, 2008. Both docket records show the absence of a notation relating to the Notice.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

MPEP 711.03(c).

Analysis

A review of Office records reveals that the Notice and a Filing Receipt were mailed on December 12, 2007. A review of the petition and of the copy of the Docket Record for the

present application reveals that Applicant received the Filing Receipt. As such, there are circumstance that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and confirm that the Notice was not received and/or attached to the Filing Receipt, despite the receipt of the Filing Receipt.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
James R, Edgar	:	
Application No.: 11/943989	:	DECISION ON
Filing or 371(c) Date: 11/21/2007	:	PETITION
Attorney Docket Number: 200090.00040	:	

This is a decision in response to the renewed "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Official USPTO Communication," filed September 30, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed December 12, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned February 13, 2008. A Notice of Abandonment was mailed August 21, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to the Office of Initial Patent Examination for processing of Applicant's response to the Notice, including the drawings filed August 29, 2008.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARMAN-BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Shuttleworth et al.	:	DECISION ON PETITION
Application No. 11/944,016	:	TO WITHDRAW
Filed: November 21, 2007	:	FROM RECORD
Attorney Docket No. P02069USC	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on July 6, 2009 the power of attorney to Brinks Hoffer Gilson & Lione 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: The Eclipse Group LLP
10605 Balboa Blvd., Suite 300
Granada Hills CA 91344

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.
11/944,070	11/21/2007	Scott Costa	2725-45700	4640

7590 07/17/2008

Conley Rose, P.C
P.O. Box 3267
Houston, TX 77253-3267

EXAMINER	
BATES, ZAKIYA W	

ART UNIT	PAPER NUMBER
3676	

MAIL DATE	DELIVERY MODE
07/17/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

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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NOV 25 2008

OFFICE OF PETITIONS

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON OH 45402-2023

In re Application of :
Joseph M. Starita :
Application No. 11/944,071 : DECISION ON PETITION
Filed: November 21, 2007 :
Attorney Docket No. CPP 0017 PA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 21, 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 December 13, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $75 for the statutory basic filing fee, $65 for the surcharge fee, $255 for the search fee, and $105 for the examination fee (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Brian W. Brown
Petitions Examiner
Office of Petitions

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PTO/SB/64 (07-06)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to 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) CPP 0017 PA

First named inventor: Joseph M. Starita

Application No.: 11/944,071 Art Unit: 1796

Filed: November 21, 2007 Examiner:

Title: APPARATUS AND METHODS FOR CROSS-LINKED CORRUGATED POLYETHYLENE PIPE

08/22/2008 HMARZI1 00000018 11994071
01 FC:2453 -770.00 OP

Adjustment date: 11/25/2008 CKHLOK

Attention: Office of Petitions .
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

11/25/2008 CKHLOK 00000002 11944071
01 FC:2453 770.00 OP

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.

08/22/2008 HMARZI1 00000018 11994071
01 FC:2453 770.00 OP

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AUG 21 2008

PTO/SB/64 (07-06)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature — Date: 8-21-08

Paul M. Ulrich — Typed or printed name

46,404 — Registration Number, if applicable

One Dayton Centre, One South Main Street, Suite 1300 — Address

937/449-6400 — Telephone Number

Dayton, OH 45402 — 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 as (571) 273-8300.

8-21-08
Date

Signature

Paul M. Ulrich
Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/944,097	11/21/2007	Dieter Joergens	P07,0366	4690

26574 7590 11/18/2009

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
233 S. Wacker Drive-Suite 6600
CHICAGO, IL 60606-6473

EXAMINER	
COLES, EDWARD L	

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
11/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
233 S. Wacker Drive-Suite 6600
CHICAGO IL 60606-6473

In re Application of	:	
JOERGENS, DIETER et al.	:	DECISION ON REQUEST TO
Application No. 11/944,097	:	PARTICIPATE IN PATENT
Filed: November 21, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. **P07, 0366**	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 08, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the DPMA;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the DPMA 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 DPMA 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 DPMA 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 DPMA examiner in the DPMA 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 Doris To at 571-272-7629.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Doris To/

_____

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

DT

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SCHWABE WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVENUE
PORTLAND, OR 97204

MAILED

MAY 21 2010

OFFICE OF PETITIONS

In re Application of :
James Jan et al :
Application No. 11/944,103 : DECISION ON PETITION
Filed: November 21, 2007 : TO WITHDRAW
Attorney Docket No. MP1579-174133 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 1, 2010.

The request is **APPROVED**.

A review of the file record indicates that C. Larry O'Rourke: (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, C. Larry O'Rourke has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Finnegan, Henderson, Farabow, Garnett et al
901 New York Avenue
Washington, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 997
ROCKWALL TX 75087

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MAY 21 2008

OFFICE OF PETITIONS

In re application of :
Thomas N. Chalin et al :
Application No. 11/944,140 : NOTICE
Filed: November 21, 2007 :
Attorney Docket No. WCMI-39D2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Alois BRANDL	: DECISION ON REQUEST FOR
Patent Number	: 7637019	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,182	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **41** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Knobbe Martens Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Mitchell Wortzman et al. :
Application No. 11/944,186 : DECISION ON PETITION
Filed: November 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. MEDCI.034DV1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 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 photocopy of co-applicant Bhikhubhai G. Patel's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Upon completion of the pre-examination processing by the Office of Initial Patent Examining, this application will be referred to Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Lench, et al. :
Application No. 11/944,212 : DECISION
Filed: 21 November, 2007 :
Attorney Docket No. 16418.1.1 :

This is a decision on the petition filed on 17 April, 2009, under the provisions of 37 C.F.R. §1.137(b), seeking revival of the application as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

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. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice to File Corrected Application Papers mailed on 4 August, 2008, with reply due absent extension of time on or before 4 October, 2008.

The application went abandoned by operation of law after midnight 4 October, 2008.

The Office mailed the Notice of Abandonment 10 April, 2009.

On 17 April, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of a reply to the Notice to File Corrected Application Papers.

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.

---

[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.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the 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 the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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DIW Sep-09

MARK A OATHOUT
3701 KIRBY DRIVE, SUITE 960
HOUSTON TX 77098

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SEP 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Philip Botting	:	DECISION ON PETITION TO
Application Number: 11/944235	:	WITHDRAW HOLDING OF
Filing Date: 11/21/2007	:	ABANDONMENT
Attorney Docket Number: REEV005	:	

This is a decision on the "PETITION TO DIRECTOR TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed on March 17, 2009.

The petition is **GRANTED**.

The application was held abandoned for failure to file a complete response to the Notice to File Missing Parts of Nonprovisional Application mailed on December 12, 2007, which set a two (2) month shortened period for reply. On February 12, 2008, a reply to the Notice mailed on December 12, 2007 was filed, including payment for three (3) claims in excess of 20 and 1 multiple dependent claim. A preliminary amendment cancelling claims 24-26 was also filed.

On February 25, 2008, a Notice of Incomplete Reply was mailed, stating that the reply of February 12, 2008 was incomplete an additional $100 for 5 claims over 20 was required.

In response, on March 24, 2008, a Response to Notice of Incomplete Reply was filed, stating that no additional fees should be due because applicant canceled the additional claims 24-26, and requesting that the Notice of Incomplete Reply be withdrawn.

On January 30, 2009, Notice of Abandonment was mailed.

Petitioner again requests that the Notice of Incomplete Reply be withdrawn, and the reply of February 12, 2008 be considered complete.

A review of the record reveals that on November 21, 2007, the application was filed. The application papers included Claims 1-26.

On December 12, 2007, the Notice to File Missing Parts was mailed, requiring an oath or declaration, replacement drawings, and $630 for three independent claims over 3, $400 for 8 total claims over 20, and $370.00 for multiple dependent claim surcharge.

On February 12, 2008, applicants paid $150 for three claims over 20 and the multiple dependent claim surcharge. A preliminary amendment was filed cancelling claims 23-26. The remarks section of the preliminary amendment noted that three independent claims had been deleted such that there are no independent claims over 3, and the total claims over 20 is now 3.

On February 25, 2008, the Notice of Incomplete Reply was mailed, requiring $100.00 for 5 claims over 20.

On March 24, 2008, the communication was filed stating that the Notice of Incomplete Reply was in error.

Petitioner's argument is persuasive. MPEP 714.01(e) states, in pertinent part, that any amendment canceling claims in order to reduce the excess claims fees should be filed before the expiration of the time period set forth in a notice that requires excess claims fees. Such an amendment would be effective to reduce the number of claims to be considered in calculating the excess claims fees.

The showing of record is that the preliminary amendment cancelling claims 24-26 was filed prior to the expiration of the period set forth in the Notice mailed on December 12, 2007. Accordingly, no additional fee was due. Further, applicant timely requested that the Notice of Incomplete Reply be withdrawn.

The Office apologizes for any inconvenience to petitioner.

The holding of abandonment is **withdrawn**, and the Notice of Abandonment is **vacated**.

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SHELDON MAK ROSE & ANDERSON PC
100 CORSON STREET
THIRD FLOOR
PASADENA CA 91103-3842

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NOV 2 5 2008

OFFICE OF PETITIONS

In re Application of :
Sung M. Woo :
Application No. 11/944,238 : DECISION ON PETITION
Filed: November 21, 2007 :
Attorney Docket No. 18188 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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 a declaration and surcharge fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed December 17, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of :

Stephanie Duke :
Application No. 11/944,277 : DECISION ON PETITION
Filed: November 21, 2007 : TO WITHDRAW
Attorney Docket No. **158809.0001USU1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed September 15, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Andrew J. Lagatta on behalf of all attorneys of record who are associated with the Customer No. 23552.

All attorneys/agents associated with Customer No. 23552 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 Stephanie Duke at the address list below.

There is an outstanding Office action mailed October 14, 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: Stephanie Duke
2310 Drew Avenue S
Minneapolis, MN 55416

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
11/944,277	11/21/2007	Stephanie Duke	15809.0001USU1

CONFIRMATION NO. 5031

POWER OF ATTORNEY NOTICE

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Date Mailed: 10/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Weaver Austin Villeneuve & Sampson LLP - IGT
Attn: IGT
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Chauncey W. Griswold	: DECISION ON REQUEST FOR
Patent Number	: 7611411	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,283	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **37** 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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333 SOUTH HOPE STREET
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LOS ANGELES CA 90071-1448

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of :
Maroney and Chakravarty :
Application No. 11/944,303 :
Filed: November 21, 2007 :
Attorney Docket No. 16HC-134323 :
For: Clustered Storage Network :

Decision Reviving Application and According Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2008, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.47(a) filed September 10, 2008.

The petition under 37 CFR 1.137(b) is **granted**.

The petition under 37 CFR 1.47(a) is **granted**.

The petition under 37 CFR 1.137(b)

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 February 8, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 9, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice to File Missing Parts. Petitioner has submitted the required petition fee of $1,540. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition under 37 CFR 1.47(a)

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 petition states the required petition for the petition under 37 CFR 1.47(a) is $130. However, the required fee is actually $200. Therefore, $200 has been charged to petitioner's deposit account for the fee.

Conclusion

The Office of Patent Application Processing will be informed the application has been revived and the application has been accorded status under 37 CFR 1.47(a). Thereafter, the Office of Patent Application Processing will take steps to prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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LOS ANGELES CA 90071-1448

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OFFICE OF PETITIONS

In re Application of	:	
Maroney et al.	:	DECISION ON PETITION
Application No. 11/944,303	:	TO WITHDRAW
Filed: November 21, 2007	:	FROM RECORD
Attorney Docket No. 16HC-134323	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 26, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Daniel N. Yannuzzi on behalf of all attorneys of record who are associated with customer No. 30764.

All attorneys/agents associated with the Customer Number 30764 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

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APR 14 2008

OFFICE OF PETITIONS

In re Application of :
STONE, Charles L. :
Application No. 11/944,333 : DECISION ON PETITION
Filed: November 21, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **23048-001** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 29, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the inventor's driver's license as evidence that Charles L. Stone is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3747 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of
JOO, WON-SEOK
Application No. 11/944,351
Filed: November 21, 2007
Attorney Docket No.: 0630-3312PUS1

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed August 18, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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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Heller Ehrman, LLP
4350 La Jolla Village Drive #700
7th Floor
San Diego, CA 92122

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Sheldon Gilbert	:	
Application No. 11/944,357	:	DECISION ON
Filed: November 21, 2007	:	PETITION TO WITHDRAW
Attorney Docket No. 43351-0005-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Steven A. Moore on behalf of all attorneys/agents associated with customer number 33123. All attorneys/agents associated with customer number 33123 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the inventor at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Sheldon Gilbert
127 West 26th Street
Suite 700
New York, NY 10001

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/944,357	11/21/2007	Sheldon Gilbert	43351-0005-1

CONFIRMATION NO. 5211

POWER OF ATTORNEY NOTICE

33123
HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

OC000000035408066

Date Mailed: 04/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2008.

- 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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United States Patent and Trademark Office
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Oliver Williams	: DECISION ON REQUEST FOR
Patent Number	: 7646138	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: 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

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

MAILED

MAY 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Heber Saravia, et al.	:	
Application No. 11/944,366	:	DECISION ON PETITION
Filed: November 21, 2007	:	TO WITHDRAW
Attorney Docket No. 028295-000210US	:	FROM RECORD
	:	

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 9, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Shady Glenn LLP has been revoked by the assignee of the patent application on February 18, 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: **TOWNSEND AND TOWNSEND AND CREW, LLP**
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO CA 92122

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
GILBERT, Sheldon :
Application No. 11/944,370 : DECISION ON PETITION
Filed: Novemer 21, 2007 : TO WITHDRAW
Attorney Docket No. **43351-0005-3** : 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 October 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 Steven A. Moore on behalf of all attorneys of record who are associated with customer No. 33123. 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: **SHELDON GILBERT**
127 WEST 26TH STREET
SUITE 700
NEW YORK, NY 10001

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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MAY 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles L. Nelson, et al.	:	
Application No. 11/944,379	:	DECISION ON PETITION
Filed: November 21, 2007	:	TO WITHDRAW
Attorney Docket No. 028295-000310US	:	FROM RECORD
	:	

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 9, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Shady Glenn LLP has been revoked by the assignee of the patent application on February 18, 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: **TOWNSEND AND TOWNSEND AND CREW, LLP**
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

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APR 07 2010

OFFICE OF PETITIONS

In re Application of :
BOWEN, William W. et al. :
Application No. 11/944,381 : DECISION ON PETITION
Filed: November 21, 2007 : TO WITHDRAW
Attorney Docket No. **028295-000320US** : FROM RECORD
:

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 09, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to SHAY GLENN LLP has been revoked by the assignee of the patent application on February 18, 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/
Petitions Examiner
Office of Petitions

cc: **TOWNSEND AND TOWNSEND AND CREW, LLP**
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SHAY GLENN, LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

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APR 26 2010

OFFICE OF PETITIONS

In re Application of
Brian Hauck, et al.
Application No. 11/944,385
Filed: November 21, 2007
Attorney Docket No. 10176-705.201

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 8, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by James R. Shay on behalf of all attorneys of record who are associated with customer No. 66854. All attorneys/agents associated with the Customer Number 66854 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: CHARLES L. NELSON
SONOMA ORTHOPEDIC PRODUCTS, INC
650 LARKFIELD SHOPPING CENTER, SUITE C
SANTA ROSA, CA 94503

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
11/944,385	11/21/2007	Brian Hauck	10176-705.201

CONFIRMATION NO. 5261

POWER OF ATTORNEY NOTICE

66854
SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Date Mailed: 04/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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STEVEN J. CAHILL/ ALTERA CORP.
P.O. Box 779
MENLO PARK, CA 94026-0779

Mail Date: 04/21/2010

Applicant	: Ali Atesoglu	: DECISION ON REQUEST FOR
Patent Number	: 7602260	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,386	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **36** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael R. Wilmouth et al.	:	
Application No. 11/944,387	:	DECISION ON
Filed: November 21, 2007	:	PETITION TO WITHDRAW
Attorney Docket No. SPI-10.2.001.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bradley M. Ganz: (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. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Michael R. Wilmouth
204 N. San Antonio Avenue
Ontario, Canada 91762

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Lockheed Martin c/o
DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

Mail Date: 04/20/2010

Applicant	: George Raymond Root JR.	: DECISION ON REQUEST FOR
Patent Number	: 7602478	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,393	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **177** 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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DAVID KLEIN
DEKEL PATENT LTD.
BEIT HAROF'IM
18 MENUHA VENAHALA STREET
ROOM 27
REHOVOT IL ISRAEL

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
Abraham Blau :
Application No. 11/944,441 : DECISION ON PETITION
Filed: December 22, 2007 : TO WITHDRAW
Attorney Docket No. 1078MOB-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 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 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, "PERSONAL", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ABRAHAM BLAU
34 DANIEL MORITZ STREET
TELE AVIV 69345
ISRAEL

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In re Application of	:	
Abrham Blau	:	
Application No. 11/944,441	:	DECISION ON PETITION
Filed: November 22, 2007	:	TO WITHDRAW
Attorney Docket No. 1078MOB-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 September 1, 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 petitioner has not certified that (1) he has given reasonable notice to the client, prior to the expiration of the response period, that the practitioners(s) intends to withdraw from employment; (2) delivered to the client or duly authorized agent of 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. Practitioners are not permitted to withdraw from representation as practitioners of record unless all the certifications are made. It is also noted that submitting false certification may violate a practitioner's duty under 37 CFR 10.23(b)(4) and (b)(5).

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

Enclosure: Form/PTO/SB/83

cc: ABRAHAM BLAU
34 DANIEL MORITZ STREET
TEL AVIV 69345
ISRAEL

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REHOVOT IL ISRAEL

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Abraham Blau	:	
Application No. 11/944,441	:	DECISION ON PETITION
Filed: November 22, 2007	:	TO WITHDRAW
Attorney Docket No. 1078MOB-US-CON	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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 request was signed by David Klein 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. 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: ABRAHAM BLAU
34 DANIEL MORTIZ STREET
TELE AVIV 69345 ISRAEL

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/944,441	11/22/2007	Abraham Blau	1078MOB-US-CON

CONFIRMATION NO. 5372

POWER OF ATTORNEY NOTICE

David Klein
DEKEL PATENT LTD.
Beit HaRof'im
18 Menuha VeNahala Street, Room 27
REHOVOT,
ISRAEL

OC000000036919495

Date Mailed: 07/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2009.

- 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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AARON R. FEIGELSON
LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Birrer et al.	:	DECISION ON PETITION
Application No. 11/944,458	:	TO WITHDRAW
Filed: November 22, 2007	:	FROM RECORD
Attorney Docket No. 261418	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 22, 2008.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified.

Currently this application has been docketed and is awaiting examination.

Telephone inquires concerning this decision should be directed to Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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JUL 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Birrer et al.	:	DECISION ON PETITION
Application No. 11/944,458	:	TO WITHDRAW
Filed: November 22, 2007	:	FROM RECORD
Attorney Docket No. 261418	:	

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 3, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Aaron R. Feigelson on behalf of all attorneys of record who are associated with Customer No. 23460.

All attorneys/agents associated with Customer Number 23460 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Stefan Birrer
628 Davis Street
Evanston IL 60201

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/944,547	11/23/2007	Shinichi TSUBURA	318708US2X	5592

7590 12/11/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
DORVIL, RICHEMOND	

ART UNIT	PAPER NUMBER
2626	

NOTIFICATION DATE	DELIVERY MODE
12/11/2009	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

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.
11/944,565	11/23/2007	Serge BERENGER	318768US41	5623

7590 10/28/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
MOHANDESI, IRAJ A	

ART UNIT	PAPER NUMBER
2834	

NOTIFICATION DATE	DELIVERY MODE
10/28/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 10/27/2008 BPOWELL
11726/2007 INTEFSW 00000336 11944565
02 FC:1111 -510.00 OP

Adjustment date: 10/27/2008 BPOWELL
11726/2007 INTEFSW 00000336 11944565
02 FC:1111 -510.00 OP

Refund Ref:
10/27/2008 0030062739

Credit Card Refund Total: $510.00

AB Exp..: XXXXXXXXXX1002

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

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

Mail Date: 04/22/2010

Applicant	: Martin BEAULIEU	: DECISION ON REQUEST FOR
Patent Number	: 7651676	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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.
11/944,579	11/23/2007	Jorge A. Morando	MJV-136-A	5645

21770 7590 12/13/2007

STEVE M CLEMMONS
33150 SCHOOLCRAFT
SUITE 207
LIVONIA, MI 48150

EXAMINER	
ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

DEC 1 3 2007

In re Application of :
Jorge A. Morando :
Serial No.: 11/944,579 :
Filed: November 23, 2007 :
For: IMPROVED FURNANCE FILTRATION :
SYSTEM FOR MOLTEN METAL :

DECISION
ON
PETITION
UNDER 708.02, VI

This is in response to the petition filed November 23, 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

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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QUICKPATENTS, INC.
32861 CALLE PERFECTO, SUITE A
SAN JUAN CAPISTRANO, CA 92675

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of

Jina JABR
Application No. 11/944,612
Filed: November 24, 2007
Attorney Docket No. **JJ71115**

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 29, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Kevin Prince on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor Jina Jabr at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed December 29, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JINA JABR**
P.O. BOX 140674
CORAL GABLES, FL 33114

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

MAHMOUD RAZZAGHI
865 ESPERANZA PL.
CHULA VISTA CA 91914

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Razzaghi
Application No. 11/944,615
Filed: November 24, 2007
For. Toothpaste Tube and Dispenser.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts of Nonprovisional Application, which was mailed on December 18, 2007. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 19, 2008. A Notice of Abandonment was mailed on August 28, 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(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)(III)(c) and (D).

The instant petition lacks item(s) (1).

As to item (1), although a declaration was submitted on petition, the declaration is not accompanied by the $65 surcharge for late submission of the declaration. On renewed petition, the $65.00 is required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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
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

Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria, VA 22314

MAILED

JAN 21 2010

OFFICE OF PETITIONS

In re Application of :
Sharad M. Shah, et. al. :
Application No. 11/944,625 : DECISION ON PETITION
Filed: November 25, 2007 : TO WITHDRAW FROM
Attorney Docket No. P3765US00 : RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed November 21, 2009.

The request is **NOT APPROVED**.

It is noted that petitioner did not make all the required certifications. However, since the assignee revoked the previous power of attorney on December 4, 2009, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant.

This application file is being referred to Technology Center Art Unit 2811 for examination in due course.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Timothy M. Honeycutt
P.O. Box 1577
Cypress, TX 77410-1577

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

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

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SEP 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Lee-Anne PETERS	:	
Application No. 11/944,645	:	DECISION ON PETITION
Filed: November 26, 2007	:	
Attorney Docket No. 3061-1002	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 19, 2008, to change the name of inventor "Lee-Anne Craven" to – Lee-Anne Peters --.

The petition is **DISMISSED as moot**.

A review of the Office record indicates the inventor's name has been changed previously from – Lee-Anne Craven— to --Lee-Anne Peters--.

In view of the above, the petition under § 1.182 is dismissed as moot.

The fee submitted with the petition on June 19, 2008, will be refunded by Treasury Check in the normal course of business.

A copy of the corrected filing receipt mailed previously on August 27, 2009, is attached.

Any questions concerning this matter may be directed to Diane Goodwyn at (571) 272-6735.

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
11/944,645	11/26/2007	3724	500	3061-1002	11	1

CONFIRMATION NO. 5838

CORRECTED FILING RECEIPT

466
YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

OC000000037518120

Date Mailed: 08/27/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Lee-Anne Peters, Hertfordshire, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 00466

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/08/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/944,645**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

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.

HARRINGTON & SMITH, PC
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

COPY MAILED

AUG 26 2009

OFFICE OF PETITIONS

In re Application of :
Eischeid et al. : DECISION ON PETITION
Application No. 11/944,660 :
Filed: November 26, 2007 :
Atty Docket No.SJO920050006US2:

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR §1.181(a) filed October 30, 2008.

The above-identified application became abandoned for failure to timely or properly reply to the Notice mailed December 4, 2007. The Notice to File Corrected Application Papers set a two (2) month time limit for applicants to submit a substitute specification. Extensions of time were obtainable under the provisions of § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective February 5, 2007. A courtesy Notice of Abandonment was mailed on February 6, 2009.

In response, applicants timely filed the instant petition. Applicants maintain that there was no abandonment in fact as the response was timely filed on March 4, 2008 (with a one-month extension of time). In support thereof, applicants submit a copy of their Electronic Acknowledge Response, and a copy of the response as originally filed. Further, applicants point out that receipt of the response by the USPTO is confirmed by its presence in the electronic files of the USPTO.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of March 4, 2008.

Further, the finance records for this application support a conclusion that the one-month extension of time, required to make the response timely, was charged to petitioner's Deposit Account on March 5, 2008.

Accordingly, the Notice of Abandonment mailed February 6, 2009 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Patent Application Processing has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Application Processing to withdraw the holding of abandonment and for processing of the response filed March 4, 2008. (It is noted that no retention fee is required and none has been charged).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/944,661	11/26/2007	Sung-Hun KIM	5000-1-1056	5873

7590 09/12/2008

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
ASSOUAD, PATRICK J	

ART UNIT	PAPER NUMBER
2862	

MAIL DATE	DELIVERY MODE
09/12/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 09/12/2008 BPOWELL
11/26/2007 INTEFSW 00003611 11944661
02 FC:1111 -510.00 OP

Refund Ref:
09/12/2008 0030061051

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-25-10

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11944705 Patent No.: 7722843

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 – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 1793 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PEARNE & GORDON LLP
1801 EAST 9TH STREET, SUITE 1200
CLEVELAND, OH 44114-3108

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Nicholas G. KONTOS
Application No. 11/944,718
Filed: November 26, 2007
Attorney Docket No. **WETZ-42793**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2009.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> **(2) delivered to the client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and**
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with item two (2) of the above certifications.

It is also noted that petitioner failed to provide correspondence address change information for all future correspondence. The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEARNE & GORDON, LLP
11801 EAST 9TH STREET, SUITE 1200
CLEVELAND, OH 44114-3108

COPY MAILED

JAN 29 2010

In re Application of :

Nicholas G. KONTOS :
Application No. 11/944,718 : DECISION ON PETITION TO
Filed: November 26, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **WETZ-42793** :

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 October 20, 2009.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted a correspondence address change directing all future correspondence for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

/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

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Knudsen, et al. :
Application No. 11/944,757 : DECISION
Filed/Deposited: 26 November, 2007 :
Attorney Docket No. 4790.560-US :

This is a decision on the petition filed 11 June, 2008, under 37 C.F.R. §1.57, seeking to have accorded a filing date of 26 November, 2007, for the above-identified application based upon a showing that the omitted drawing/figure were present in the prior-filed co-pending nonprovisional application to which this application claimed benefit (under 37 C.F.R. §1.78) on filing.

For the reasons stated herein, the petition is **DISMISSED**.

Application papers in the above-identified application were deposited on 26 November, 2007.

On 11 April, 2008, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because it had been deposited without drawing as required under 35 U.S.C. §113 (first sentence). The Office indicated that Petitioner could demonstrate on petition the presence of the drawings/figures by presentation of evidence of deposit (e.g., date-stamped receipt card, EFS Acknowledgement Receipt); or submit the drawings/figures and accept the date of submission as the filing date. The Office gave Petitioner two (2) months within which to reply.

On 11 June, 2008, Petitioner filed, *inter alia*, the instant petition with fee, and amendment and 1 sheet of drawings, FIG. 1, averred to be a copy from the parent of the previously omitted drawing FIG. 1, from the parent/previously-filed Nonprovisional Application No. 11/008,743 (the '743 application, filed on 9 December, 2004), to which application a priority claim was made in the instant application.

Petitioner asserts that the drawing/figure was inadvertently omitted from the instant application; and points to the prior filed '743 application, and now seeks to obtain an incorporation by

reference herein under the provisions of 37 C.F.R. §1.57(a). Petitioner appears to have filed an amendment under the rule.

Petitioner's arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method/process/composition claim. MPEP §601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113 (first sentence). The same practice has been followed in composition applications.

Thus, pursuant to §601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application.

The Petition fee is waived and is refunded via Deposit Account 14-1447. Should Petitioner later find that a petition fee was not refunded, Petitioner should request a refund from the Office of Finance and enclose therewith a copy of this decision.

Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to 26 November, 2007**;
- **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **issuance of a filing receipt.**

It is also noted that the drawing filed on 11 June, 2008, is not considered to be an amendment to the application and is not in compliance with 37 C.F.R. §1.121. (*See*: *inter alia*, 37 C.F.R. §1.121(d).) However, when Petitioner submits the amendment to enter drawing into this application, entry of that amendment will be determined by the Examiner.

Telephone inquiries concerning this matter should be directed to John J Gillon, Jr., attorney, at (571) 272-3214.

Anthony Knight
Supervisor
Office of Petitions

Attorney Docket No.: 4790.560-US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Knudsen, Liselotte Bjerre
Confirmation No. 6083

Serial No.: 11/944,757
Group Art Unit: TBD

Filed: November 26, 2007
Examiner: TBD

For: Derivatives of GLP-1 Analogs

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD A FILING DATE UNDER 37 CFR §1.57(A) AND 37 CFR §1.181

Sir:

In reply to the Notice of Incomplete Nonprovisional Application ("Notice"), mailed April 11, 2008, Applicant respectfully petitions the Director to accord the present continuation application a filing date of November 26, 2007.

The above-referenced application ("the '757 application") was filed on November 26, 2007. However, according to the Notice, the continuation application was incomplete for failure to include the drawings.

A. Drawing – Incorporation by Reference Under 37 C.F.R. §1.57(a) via U.S. Application No. 10/285,079

The sole drawing of the '757 application, Figure 1, was inadvertently omitted from the application when it was filed on November 26, 2007.

The '757 application included a priority claim under 37 C.F.R. § 1.78 to then co-pending parent application U.S. Application No. 11/008,743 ("Parent U.S. Application No. 11/008,743"), filed December 9, 2004, now abandoned, and an incorporation by reference of that application. It appears from Applicants' file and the records available on PAIR that Parent U.S. Application No. 11/008,743 was also inadvertently filed without a copy of Figure 1, although Parent U.S. Application No. 11/008,743 was accorded a filing date of December 9, 2004, and the inadvertent omission of Figure 1 was

Adjustment date: 03/13/2009 CKHLOK
06/12/2008 INTEFSW 00003363 141447 11944757
01 FC:1462 460.00 CR

not noticed by the Patent Office or Applicant during prosecution of that application, which has since been abandoned.

Both the present '757 application and Parent U.S. Application No. 11/008,743 included a priority claim under 37 C.F.R. § 1.78 to U.S. Application No. 10/285,079, filed August 19, 2002, now U.S. patent No. 7,235,627 ("Grandparent U.S. Application No. 10/285,079"), which was pending at the time Parent U.S. Application No. 11/008,743 was filed. Both the present '757 application and Parent U.S. Application No. 11/008,743 include an incorporation by reference of Grandparent U.S. Application No. 10/285,079 at page 1, lines 2 - 18.

Grandparent U.S. Application No. 10/285,079 was filed with a copy of Figure 1, as indicated by the presence of the figure in the published application, U.S. Patent Application Publication No. 2003/0199672.

Figure 1 therefore was incorporated by reference into Parent U.S. Application No. 11/008,743 as of its December 9, 2004 filing date, and into the present '757 application as of its November 26, 2007 filing date, and therefore the November 26, 2007 continuation filing was, at least constructively, the filing of a complete application.

Accordingly, the Applicant hereby files the present petition under 37 CFR §1.57(a), concurrently with an Amendment under 37 CFR §1.57(a) (filed herewith) to incorporate by reference the above-identified inadvertently omitted material to the above application. Thus, Applicants assert that the present Application should be accorded the November 26, 2007 filing date.

B. Drawing – Incorporation by Reference Under 37 C.F.R. §1.57(a) via U.S. Application No. 11/008,743

Although Applicants believe that Incorporation by Reference as set forth in Section (A) is proper, Applicant notes that M.P.E.P. §201.17(II)(E) states that:

> If the application is abandoned or the prosecution is closed, applicant may file a petition to revive an application under 37 CFR 1.137 and/or a request for continued examination under 37 CFR 1.114, as appropriate, in order to restore the

> application to pending status and/or reopen prosecution in the application.

Additionally, M.P.E.P. §201.17(III) offers the following scenerio, which Applicant believes may directly relate to the present Application:

> Example 3: Applicant filed a (third) application that includes a claim under 37 CFR 1.78 for the benefit of a (second) prior-filed application and a (first) prior-filed application. The second application was a continuation application of the first application and the second application was abandoned after the filing of the third application. Subsequently, the applicant discovered the last page of the specification was inadvertently omitted from the third application and the second application. If the benefit of the filing date of first application for the omitted subject matter is required (for example, the omitted material is required to provide support for the claimed subject matter of the third application and there is an intervening reference that has a prior art date prior to the filing date of the third application, but after the filing date of the first application), applicant must amend the specification of the second application and the specification of the third application to include the inadvertently omitted material in compliance with 37 CFR 1.57(a) (note: the second and third applications must be filed on or after the effective date of 37 CFR 1.57(a)). Since the second application is abandoned, applicant must file a petition to revive under 37 CFR 1.137 in the second application only for the purpose of correcting the specification under 37 CFR 1.57(a) along with the amendment in compliance with 37 CFR 1.57(a).

Thus, in light of M.P.E.P. §201.17(II)(E) and (III), Applicant additionally hereby files the present Petition under 37 CFR §1.57(a), concurrently with a Petition to Revive U.S. Application No. 11/008,743 under 37 C.F.R. § 1.137(b) solely for the purpose of correcting the Specification under 37 C.F.R. §1.57(a), the required Amendment under 37 CFR §1.57(a) (filed herewith) to correct the Specification of U.S. Application No. 11/008,743 and the fees required under 37 C.F.R. §§ 1.17(f) and (m). Thus, Applicants assert that the present Application should be accorded the November 26, 2007 filing date.

C. CONCLUSION

For at least the foregoing reasons, Applicants believes that the requirements for a Petition under 37 C.F.R. §1.57(a) and 37 C.F.R. § 1.137(b) (if necessary) are satisfied. Please charge the required petition fee, estimated to be $400.00, under 37 C.F.R. §1.17(f), to Deposit Account Number 14-1447. Please charge any additional fees, should they be required, to Deposit Account No. 14-1447.

Respectfully submitted,

Date: June 11, 2008

/Richard W. Bork, Reg. No. 36,459/
Richard W. Bork, Reg. No. 36,459
Novo Nordisk Inc.
Customer Number 23650
(609) 987-5800

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____ 2 Serial/Patent # 11/944 757

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			$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 400.00

8 TO BE REFUNDED BY:

Treasury Check

Credit Deposit A/C #:

9 14--1447

10 REASON:

Overpayment

Duplicate Payment

✓ No Fee Due (Explanation):

Meth. cl. pres

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: gillon TITLE: atty

SIGNATURE: /John Gillon/ PHONE: 23214

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhlok DATE: 3/13/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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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.
11/944,763	11/26/2007	Jeremy Earle Walker	302/1/081	6096

7590 01/30/2009

RICHARD M. GOLDBERG
25 EAST SALEM STREET
SUITE 419
HACKENSACK, NJ 07601

EXAMINER	
GAFFIN, JEFFREY A	
ART UNIT	**PAPER NUMBER**
2165	
MAIL DATE	**DELIVERY MODE**
01/30/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
02/04/2009 0030066275

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXX1006

Adjustment date: 02/04/2009 NFARMER
02/11/2008 INTEFSW 00007781 11944763
02 FC:1111 -510.00 OP

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DLA PIPER LLP (US)
ATTN: PATENT GROUP
500 8th Street, NW
WASHINGTON DC 20004-2131

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
John Hildreth	:	
Application No. 11/944,836	:	DECISION ON PETITION
Filed: November 26, 2007	:	TO WITHDRAW
Attorney Docket No. 3845-001 CONT	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 2, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that DLA Piper, LLP does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the 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: JOHN HILDRETH
7811 FIELDSTONE COURT
ELLICOTT CITY, MD 21043

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 04/21/2010

Applicant	: Seong-sin JOO	: DECISION ON REQUEST FOR
Patent Number	: 7590034	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/944,863	: OF WYETH
Filed	: 11/26/2007	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Rawson, Scott A. :
Application No. 11/944,879 : ON PETITION
Filed: November 26, 2007 :
Attorney Docket No. IR-2819 (MFW) CON :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,110.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3657 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/944,886	11/26/2007	Sean Callanan	CAM920070173US1	6352

63606 7590 02/27/2008

CANTOR COLBURN LLP - IBM BOCA RATON
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
HONG, STEPHEN S	

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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CANTOR COLBURN LLP - IBM BOCA RATON
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
Sean Callanan et al.
Serial No.: 11/944,886
Filed: November 26, 2007
Docket: CAM920070173US1
Title: TEMPORAL VISUALIZATIONS OF COLLABORATIVE EXCHANGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 26, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1 – I.4, II5.3, II.6.1, II 6.2, II.6.4 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.1, 5.2, II. 6.3 and II.6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items II.5 and 5.1 above, the preexamination search does not include a classified search in class 715, subclass 751 (Operator Interface, Computer Supported collaborative work between plural users), where this application is classified and references more pertinent than those already identified appear likely to be found. Petitioner is required to perform a search in this area or provide justification with reasonable certainty why no references more pertinent than those already identified are likely to be found in the above class and subclass. In addition, the preexamination search document lists various subclasses within each of classes 354 and 395, none of which classes currently exist within U. S. classification system. Correction is required.

Regarding item 5.2 above, the preexamination search must be directed to the (instant) claimed invention and encompass ***all of the features of the claims***, giving the claims the broadest reasonable interpretation. However, claim limitations some of which have been identified as patentable features distinguishing the claimed invention from the cited prior art (such as "user defined granularity", "central area which represents a present time", "markings..arranged in steadily increasing radial distances", ""represent times of steadily increasing temporal distances", "relationship...based on the user defined granularity" as recited in claim 1; "divided...into a first half ...and a second half" as recited in claim 2 ; "dots..grouped together" as recited in claim3; "virtual business card", "navigable...history", "modification....of the dot closest to or within the central area" as recited in claim 4 and "user preferences", "temporarily remove..dot or ..graphic connection", "filter a display...according to...frequency" as recited in claim 5) or any search terms covering these limitations do not appear to have been included in the search. Petitioner should review all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the search covers these concepts, and update the search and/or provide any clarifications if deemed necessary .

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." While petitioner discusses why none of the references listed in section 9(A) of the support document anticipates any of these claims, the support document does not provide any explanation why the instant claims would not be obvious in view of the combined teachings and the state of the art disclosed by the references listed in section 9(A) of the Accelerated Examination support Document. In addition, the Detailed Explanation of patentability provided in section 9(C) asserts that dependent claims 2-4 include limitations that would define over the references if claim 1 was found to be unpatentable, but does not clearly

[1] MPEP 8th ed. rev 5 August 2006

identify the specific claim language that would define over the references as asserted. Clarification is required. Further, dependent claim 5 is not addressed in this section. Petitioner must point out why claim 5 is patentable over the references deemed most closely related, or include a statement that claim 5 does not recite any additional limitation that defines over the references deemed most closely related.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, for each of dependent claims 3 – 5, the Accelerated Examination Support Document only cites to several paragraphs in the specification as providing support for each claim as a whole, without specifically pointing out where ***each limitation in each of these claims finds support in the specification***.

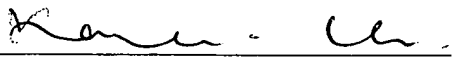
DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned by telephone are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571) 272-4210.



Kakali Chaki, Quality Assurance Specialist
Technology Center 2100m

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/944,886	11/26/2007	Sean Callanan	CAM920070173US1	6352

63606 7590 03/28/2008

CANTOR COLBURN LLP - IBM BOCA RATON
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
HONG, STEPHEN S	

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
03/28/2008	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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20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
Sean Callanan et al.
Serial No.: 11/944,886
Filed: November 26, 2007
Docket: CAM920070173US1
Title: TEMPORAL VISUALIZATIONS OF COLLABORATIVE EXCHANGES

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on March 25, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on November 26, 2007 was dismissed in the decision mailed on February 27, 2008.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the

examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance..

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

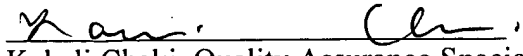
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application. In addition, Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719.If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, can be reached at (571) 272-4210.



Kakali Chaki, Quality Assurance Specialist
Technology Center 2100

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

AUG 31 2009

OFFICE OF PETITIONS

In re Application of :
Machiko Segawa, et al. :
Application No.: 11/944,929 : ON PETITION
Filed: November 26, 2007 :
Attorney Docket No.: 318241US8CONT :

This is a decision on the petition, filed August 28, 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 July 21, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OPTIMAL TECHNOLOGIES, INC.
1001 West 4th St.
Winston-Salem NC 27101

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of
Roland Schoettle
Application No. 11/944,936
Filed: November 26, 2007
Attorney Docket No. P038US

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 March 4, 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: **OPTIMAL TECHNOLOGIES, INC.**
801 JONES FRANKLIN ROAD, SUITE 210
RALEIGH, NC 27606

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OPTIMAL INNOVATIONS, INC.
1001 West 4th Street
Winston-Salem, NC 27101

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JUL 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Roland Schoettle	:	
Application No. 11/944,936	:	DECISION ON PETITION
Filed: November 26, 2007	:	TO WITHDRAW
Attorney Docket No. P038US	:	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 July 16, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael T. Morlock on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **OPTIMAL INNOVATIONS, INC.**
801 JONES FRANKLIN ROAD
SUITE 210
RALEIGH, NC 27606

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/944,936	11/26/2007	Roland Schoettle	P038US

CONFIRMATION NO. 6477

84373
OPTIMAL INNOVATIONS, INC.
1001 West 4th St.
Winston-Salem, NC 27101

POWER OF ATTORNEY NOTICE

OC000000042711490

Date Mailed: 07/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/16/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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JAN 29 2010

OFFICE OF PETITIONS

ALNYLAM/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of
Dinah Wen-Yee Sah et al
Application No. 11/944,961
Filed: November 26, 2007
Attorney Docket No. 26421-15018 US

: 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 January 27, 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 undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1635 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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SEP 26 2008

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
Larry D. Knerr
Serial No.: 11/944,977
Filed: November 26, 2007
Attorney Docket No.: **1484-022**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed September 19, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on June 11, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, 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. As this application has been allowed, the information is being returned to applicant.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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OPTIMAL INNOVATIONS, INC.
1001 WEST 4TH ST.
WINSTON-SALEM NC 27101

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JUL 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Schoettle, Roland	:	DECISION ON PETITION
Application No. 11/944,989	:	TO WITHDRAW
Filed: November 26, 2007	:	FROM RECORD
Attorney Docket No. P037US	:	

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 29, 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.*

The address provided in the request is neither the assignee nor the first named inventor. Accordingly, the request cannot be granted. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Further, the instant application became abandoned on October 10, 2009 for failure to timely respond to the Office action mailed September 9, 2009. A Notice of Abandonment was mailed March 25, 2010. The Office will not decide requests to withdraw from representation as practitioner of record which are filed after the expiration date of a time period for reply or the expiration date of a time period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). As such, any renewed Request to Withdraw as Attorney will not treated on the merits, but will only be placed in the application.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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C/O YEE & ASSOCIATES PC
PO BOX 802333
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of :
Doan, et al. :
Application No. 11/945,008 : ON PETITION
Filed: November 26, 2007 :
Attorney Docket No. AUS920050060US2 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 5, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 6 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 7, 2008. A Notice of Abandonment was mailed on December 5, 2008.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2612 for consideration of the Amendment, filed January 5, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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JUL 30 2008

WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

In re Application of :
Robert Linley Muir :
Application No. 11/945,031 : DECISION ACCORDING STATUS
Filed: November 26, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 19234US01 :
(P00667)

This is in response to the petition under 37 CFR 1.47(b), filed July 7, 2008.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The petition and declaration have been reviewed and determined to be in compliance with 37 C.F.R. § 1.47(b).

The application is hereby accorded Rule 47 status.

As provided in 37 C.F.R. § 1.47(c), the Office will provide notice of this application's filing to the non-signing inventors at the last known address provided in the petition. Notice will also be provided in the Official Gazette.

The application is being forwarded to Group Art Unit 2631 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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ROBERT LINLEY MUIR
7/6 BENTON AVENUE
ARTARMON NSW 2064
AUSTRALIA

In re Application of :
Robert Linley Muir :
Application No. 11/945,031 :
Filed: November 26, 2007 : LETTER
Title: Gaming Apparatus and Method :
Involving Secondary Display

Dear Mr. Muir:

You are named as an 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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Nicholas Jason Ackerley	: DECISION ON REQUEST FOR
Patent Number	: 7594438	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/945,052	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **88** 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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SHERR & VAUGHN, PLLC
620 HERNDON PARKWAY
SUITE 320
HERNDON, VA 20170

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OFFICE OF PETITIONS

In re Application of
Eun-Soo Jeong
Application No. 11/945,091
Filed: November 26, 2007
Attorney Docket No. 604-0120

ON PETITION

This is a decision on the petition, filed October 9, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before September 17, 2009 as required by the Notice of Allowability mailed June 17, 2009. A Notice of Abandonment was mailed on October 7, 2009. In response, on October 9, 2009, the present petition was filed.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Daniel H. Sherr 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to oversee the review of the drawing filed October 9, 2009 and for processing into a patent.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Xiaogang Zhu	: DECISION ON REQUEST FOR
Patent Number	: 7610456	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/945,128	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAMILTON, BROOK, SMITH & REYNOLDS, PC
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
T. Benjamin Mack-Crane, et al. :
Application No. 11/945,135 : DECISION GRANTING PETITION
Filed: November 26, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2376.2371-010 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2462 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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JAN 0 8 2009

Enclosure: PETITION FOR ACCESS – SPECIAL CIRCUMSTANCES (37 CFR § 1.14(i))

Access Petition for *in re* application	:	
Christopher R. Tilton	:	THREE
Application No. 11/945,164	:	WEEK
Filed: November 26, 2007	:	LETTER
Attorney Docket No. ERTHF-79866	:	

Title: REVERSE BLISTER GROUND CALCIUM CARBONATES PACKAGING AND METHOD OF MAKING SAME

A petition for access under 37 CFR 1.14(h) [now (i)] was filed by Mr. Philip M. Nelson for One Source Industries, for access to the above-identified application on October 17, 2008, a duplicate copy of the petition is attached.[1]

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 USC § 122. See Manual of Patent Examination Procedure (MPEP), Section 103. The use of such application to interfere with the business of others may be such special circumstances. *Ex parte Bonnie-B Co., Inc.*, 1923 C.D. 42; *In re Application for Trimless Cabinets*, 128 USPQ 95 (Comm'r Pats. 1960); and *In re Crossman, Kenrick and LeMieux*, 187 USPQ 367 (PTO Solicitor 1975).

Petitioner states that access should be granted to the above-identified application because a supplier for petitioner has received a letter from the assignee of the '164 application, Earth First Industries Incorporated. The letter states, "We represent Earth First Industries Incorporated in intellectual property matters. This will confirm that the following Earth First U.S. Patent Applications are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force." The letter goes on to list several U.S. Patent Applications and an International Application.

Applicant is hereby given THREE WEEKS from the mail date of this letter to file a response. If applicant fails to respond within THREE WEEKS, petitioner may be allowed access to the file.

[1] Petitioner states that a copy of the petition for access was served upon Mr. Thomas A. Runk, Fulwider Patton LLP, Howard Hughes Center, 6060 Center Drive, Tenth Floor, Los Angeles, CA 90045

Any 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

By FAX: 571-273-0100
Attn: Office of Patent Legal Administration/Joseph F. Weiss, Jr.

If applicant chooses to file by mail, the submission of an informal courtesy copy by facsimile is requested in order to expedite a decision on the petition.

Inquiries relating to this matter may be directed to the undersigned, at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

OCT 17 2008
PATENT & TRADEMARK OFFICE

SOURCE1.044PIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petitioner	:	One Source Industries
Appl. No.	:	11/945,164
Filed	:	11/26/2007
For	:	REVERSE BLISTER GROUND CALCIUM CARBONATES PACKAGING AND METHOD OF MAKING SAME
Examiner	:	Unknown
Group Art Unit	:	Unknown

SECOND RESUBMISSION OF
PETITION FOR ACCESS TO UNPUBLISHED PATENT APPLICATIONS
PURSUANT TO 37 C.F.R. § 1.14(h)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On October 16, 2008 the undersigned attorney telephoned the USPTO petitions branch for a status update regarding the petition for access originally filed on August 13, 2008 and re-submitted on October 9, 2008. As was the case after the first filing, the clerk was unable to find the resubmitted petition in the USPTO system and suggested that the petition should be submitted yet a third time. This time, four copies of the petition are being submitted, one for each of the known application numbers referred to herein.

Accordingly, submitted herewith is a copy of the original petition and the re-submission, including receipts showing that both facsimile transmissions were received by the USPTO central fax, one on August 13, 2008, and the other on October 9, 2008.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/16/08

By: Philip Nelson
Philip M. Nelson
Registration No. 62,676
(949) 760-0404

6098692 : 101608

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Tel 949-760-0404
Fax 949-760-9502
www.knob.com

USPTO FACSIMILE TRANSMITTAL SHEET

Docket No.: SOURCE1.044PIP

CUSTOMER NO. 20995

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

October 9, 2008

Philip Nelson

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Resubmission of previously filed Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(h)

(X) Total pages in transmission: 9

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

Philip Nelson

Philip M. Nelson
Registration No. 62,676
Attorney of Record
Customer No. 20,995
(949) 760-0404

6064988:rms
100908

SOURCE1.044PIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petitioner	:	One Source Industries
Appl. Nos.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see below)
Examiner	:	Unknown
Group Art Unit	:	Unknown

RESUBMISSION OF
PETITION FOR ACCESS TO UNPUBLISHED PATENT APPLICATIONS
PURSUANT TO 37 C.F.R. § 1.14(h)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This morning the undersigned attorney telephoned the USPTO petitions branch for a status update regarding the petition for access filed on August 13, 2008. The clerk was unable to find the petition in the USPTO system and suggested that the petition should be resubmitted.

Accordingly, electronically submitted herewith is a copy of the petition, along with a receipt showing that the facsimile transmission of the petition was received by the USPTO on August 13, 2008.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9 Oct. 2008

By: Philip Nelson
Philip M. Nelson
Registration No. 62,676
(949) 760-0404

6056522_1 : 100808

SOURCE1.044PIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Petitioner	:	One Source Industries
Appl. Nos.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see below)
Examiner	:	Unknown
Group Art Unit	:	Unknown

PETITION FOR ACCESS TO UNPUBLISHED PATENT APPLICATIONS PURSANT TO 37 C.F.R. § 1.14(h)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 35 U.S.C. § 122(a), the Director of the United States Patent and Trademark Office can grant a petitioner access to an unpublished patent application "in such special circumstances as may be determined by the Director." Special Circumstances can be found "where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers." M.P.E.P. § 103(V); 37 C.F.R. § 1.14(h); *see In re Crossman*, 187 U.S.P.Q. 367 (1975); *In re Trimless Cabinets*, 128 U.S.P.Q. 95 (1960); *Ex parte Bonnie-B Co.*, 1923 C.D. 42 (1922); *see also Gardiner v. Gendel*, 727 F. Supp. 799 (E.D.N.Y. 1989).

Filed herewith as Exhibit 1 is a letter sent on behalf of Earth First Industries, Inc. The letter states: "This will confirm that the following Earth First U.S. Patent Applications are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force." (Exhibit 1, p. 1. Emphasis added.) The letter then lists the following unpublished patent applications:

Application No.	Atty. Docket No.	Title	Filing Date
60/856,690	79868	Ground Calcium Carbonates Packaging	08/18/2007
11/945,164	79866	Reverse Blister Ground Calcium Carbonates Packaging and Method of Making Same	11/26/2007
11/945,166	79867	Pliable Ground Calcium Carbonates Storage Articles and Method of Making Same	11/26/2007
12/013,077	79869	Ground Calcium Carbonate Composites For Storage Articles and Method of Making Same	01/11/2008
Unknown	79870	Pliable Ground Calcium Carbonates Storage Articles and Method of Making Same	12/06/2007

The letter was sent to a supplier for the petitioner, thereby interfering with petitioner's business. Accordingly, pursuant to 35 U.S.C. § 122(a), 37 C.F.R. § 1.14(h), and M.P.E.P. § 103(V), Petitioner respectfully requests access to the above-listed patent applications.

Petition Fee

The petition fee of $200.00 set forth in 37 C.F.R. § 1.17(g) is submitted herewith.

Certificate of Service

Because the above listed applications have not published, we have been unable to confirm the identities of the current attorneys of record in the USPTO for these applications. However, I hereby certify that a complete copy of this paper, including the accompanying exhibit, is being served via First-Class U.S. mail upon:

Thomas A. Runk	FULWIDER PATTON, LLP Howard Hughes Center 6060 Center Drive, Tenth Floor Los Angeles, CA 90045

Appl. Nos. : 60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed : 08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007

Conclusion

Petitioner believes that all of the requirements for access have been satisfied under 35 U.S.C. § 122(a) and 37 C.F.R. § 1.14(h). Accordingly, Petitioner requests access to the above-identified applications.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 13 Aug. 2008

By: Philip Nelson
Philip M. Nelson
Registration No. 62,676
(949) 76-00404

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OCT 17 2008
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(1903-1979)

Warren L. Patton
(1917-1986)

F.A. Hecht (Ret.)

(310) 242-2720
trunk@fulpat.com

June 23, 2008

To Whom It May Concern

Re: Status of U. S. Patent Applications
Owner: Earth First Industries Incorporated
Docket No.: 79836

Dear Sir or Madam:

We represent Earth First Industries Incorporated in intellectual property matters. This will confirm that the following Earth First U.S. Patent Applications are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force.

Fulwider Docket No.	Earth First Docket No.	Application No.	Title	Filing Date	Approx. Publication Date
79868	EFRST-001	60/956,690	Ground Calcium Carbonates Packaging	Aug. 18, 2007	N/A
79866	EFRST-003A	11/945,164	Reverse Blister Ground Calcium Carbonates Packaging and Method of Making Same	Nov. 26, 2007	Feb. 19, 2009
79867	EFRST-002A	11/945,166	Pliable Ground Calcium Carbonates Storage Articles And Method Of Making Same	Nov. 26, 2007	Feb. 19, 2009
79869	EFRST-004A	12/013,077	Ground Calcium Carbonate Composites For Storage Articles And Method Of Making Same	Jan. 11, 2008	Feb. 19, 2009

Fulwider Docket No.	Earth First Docket No.	Application No.	Title	Filing Date	Approx. Publication Date
79870	EPRST-002PC	US2007/024993	Pliable Ground Calcium Carbonates Storage Articles And Method Of Making Same	Dec. 6, 2007	Feb. 19, 2009

Sincerely,

FULWIDER PATTON LLP

Thomas A. Runk

TAR:tm

294178.1

293912-1

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INTELLECTUAL PROPERTY LAW

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

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USPTO OCT 17 2008 PATENT & TRADEMARK OFFICE

USPTO FACSIMILE TRANSMITTAL SHEET

Docket No.: SOURCE1.044PIP

CUSTOMER NO. 20995

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

August 13, 2008

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(g)

FILING FEES:

FEE CALCULATION				
FEE TYPE		**FEE CODE**	**CALCULATION**	**TOTAL**
General Petition	37 CFR § 1.17(g)	1460 ($200)		$200
			TOTAL FEE DUE	$200

(X) Please charge the total fees due in the amount of $200 to Deposit Account No. 11-1410.

(X) Total pages in transmission: 6

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

Philip Nelson

Philip M. Nelson
Registration No. 62,676
Attorney of Record
Customer No. 20,995
(949) 760-0404

5789705:rms

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****
*** TX REPORT ***
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ST. TIME	08/13 15:32
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PAGES SENT	6
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USPTO FACSIMILE TRANSMITTAL SHEET

Page 1 of 6

Docket No.: SOURCE1.044PIP **CUSTOMER NO. 20995**

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

August 13, 2008

Philip M. Nelson

Philip M. Nelson, Reg. No. 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(g)

FILING FEES:

FEE CALCULATION				
FEE TYPE		**FEE CODE**	**CALCULATION**	**TOTAL**
General Petition	37 CFR § 1.17(g)	1460 ($200)		$200
			TOTAL FEE DUE	$200

(X) Please charge the total fees due in the amount of $200 to Deposit Account No. 11-1410.

(X) Total pages in transmission: 6

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in

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****
*** TX REPORT ***
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RECIPIENT ADDRESS	915712738300
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ST. TIME	10/09 16:06
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PAGES SENT	9
RESULT	OK

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Fax 949-760-9502
www.kmob.com

USPTO FACSIMILE TRANSMITTAL SHEET

Page 1 of 9

Docket No.: SOURCE1.044PIP **CUSTOMER NO. 20995**

Petitioner	:	One Source Industries
App. No.	:	60/856,690; 11/945,164; 11/945,166; 12/013,077; unknown
Filed	:	08/18/2007; 11/26/2007; 11/26/2007; 01/11/2008; 12/06/2007
For	:	Various (see attached)
Examiner	:	Unknown
Group Art Unit	:	Unknown

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being transmitted via facsimile to the USPTO Central Fax No. (571) 273-8300 on the date shown below:

October 9, 2008

Philip M Nelson

Philip M Nelson, Reg No 62,676

Transmitted herewith for filing and consideration in the above-referenced application are the following items:

(X) Resubmission of previously filed Petition for Access to Unpublished Patent Applications Pursuant To 37 C.F.R. § 1.14(h)

(X) Total pages in transmission: 9

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 11-1410.

Philip Nelson

Philip M. Nelson
Registration No. 62,676
Attorney of Record
Customer No. 20,995
(949) 760-0404

6064988:rms

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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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
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LOS ANGELES CA 90045

(For Applicant)

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

(For Third Party Requester)

MAILED

MAR 2 3 2009

OFFICE OF PETITIONS

Applicant: CHRISTOPHER R. TILTON
Appl. No.: 11/945,164
Filing Date: November 26, 2007
U.S. Publication No.: US 20090045093 A1
Pub. Date: February 19, 2009
Title: REVERSE BLISTER GROUND CALCIUM CARBONATES PACKAGING AND METHOD OF MAKING SAME
Attorney Docket No.: ERTHF-79866

This is in response to the "Petition for Access Under 37 CFR 1.14(h[sic i])" which was received on October 17, 2008, and applicant's "Objection to the Petition for Access" received on January 29, 2009, for the above-identified application.

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED as moot.**

DECISION

MPEP § 106 states:

> The assignee of record of the entire interest in an application may intervene in the prosecution of the application, appointing an attorney or agent of his or her own choice. See 37 CFR 3.71. Such intervention, however, does not exclude the applicant from access to the application to see that it is being prosecuted properly, unless the assignee makes specific request to that effect. Any request to prevent the inventor from obtaining access to the file should be filed as a separate paper, 37 CFR 1.4(c), and should be directed to the Office of Petitions. If the request is granted, the inventor will be informed that he or she will only be permitted to inspect the application on sufficient showing why such inspection is necessary to conserve his or her rights, *In re The Kellogg Switchboard & Supply Company,* 1906 C.D. 274 (Comm'r Pat. 1906). *Of course, after the application has published pursuant to 35 U.S.C. 122(b), the application will be available to the public and any restriction on the inventor to access his or her application previously granted will no longer be in effect.*

Therefore, because the application has already issued as U.S. Publication No.: US 20090045093 A1, published on February 19, 2009, the petition is moot.

CONCLUSION

1. The petition is **DISMISSED as moot.**

2. Inquiries relating to this matter may be directed to the undersigned at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

FULWIDER • PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CALIFORNIA 90045
(310) 824-5555 • (310) 824-9696 FAX

FACSIMILE TRANSMISSION

Date: January 29, 2009

		Telephone	Facsimile
To:	Commissioner for Patents Attn: Office of Patent Legal Administration /Joseph F. Weiss, Jr.	571-272-7759	571-273-0100

CONFIDENTIALITY NOTICE

THE DOCUMENTS ACCOMPANYING THIS TELECOPY TRANSMISSION CONTAIN CONFIDENTIAL INFORMATION BELONGING TO THE SENDER WHICH IS LEGALLY PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS TELECOPIED INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR RETURN OF ORIGINAL DOCUMENTS TO US.

From: Thomas A. Runk

Re: Filing of:
OBJECTION TO PETITION FOR ACCESS
U.S. Application No. 11/945,164
Filing Date: November 26, 2007
Title: REVERSIBLE BLISTER GROUND CALCIUM CARBONATES PACKAGING AND METHOD OF MAKING SAME
Inventor: Christopher R. Tilton

Client/Matter: ERTHF-79866

Number of pages (Incl. this page): 6

If You Do Not Receive All Pages, Please Call Joyce Buxbaum at (310) 824-5555, Ext. 683

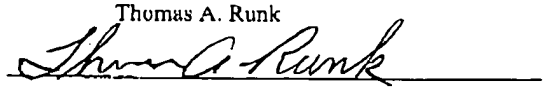
☐ Original to follow ☒ Original will NOT follow

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (571) 273-0100)
on January 29, 2009.

Typed or printed name of person signing this certificate

Thomas A. Runk

Signature 

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (571) 273-0100) on January 29, 2009.

Typed or printed name of person signing this certificate

Thomas A. Runk

Signature Thomas A. Runk

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Christopher R. Tilton
Application No.	:	11/945,164
Filing Date	:	November 26, 2007
For	:	REVERSIBLE BLISTER GROUND CALCIUM CARBONATES PACKAGING AND METHOD OF MAKING SAME
Legal Advisor	:	Joseph F. Weiss, Jr.
Art Unit	:	3728
Confirmation No.	:	6879
Docket No.	:	ERTHF-79866
Date:	:	January 29, 2009

OBJECTION TO PETITION FOR ACCESS

Commissioner for Patents
United States Patent And Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By Facsimile: 571-273-0100

ATTN: Office of Patent Legal Administration/Joseph F. Weiss, Jr.

Dear Sir:

This is in response to the THREE WEEK LETTER dated January 8, 2009 from the Office. Applicant objects to granting the "Petition for Access to Unpublished Patent Applications" dated October 16, 2008 by One Source Industries.

In its petition, One Source Industries fails to show the existence of any "special circumstances" that would justify the Office in denying Applicant the confidentiality of its application that is provided under 35 U.S.C. § 122(a). Petitioner One Source Industries bases its allegation of "special circumstances" on a letter addressed to "To Whom It May Concern" dated June 23, 2008. The letter states that Earth First Industries Incorporated has filed patent applications with the Office and that those applications "are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force." Petitioner has taken the trouble to underline and bold the words "and are in full force" without explanation of the reason for doing so. In fact, "in full force" simply means that the application is not abandoned, that all applicable fees have been paid, that any Office Actions have been responded to, that all Office requirements have been met, and that the Office designates the application as pending. Notably, that letter contains no allegation of infringement by Petitioner or its supplier of any patent application.

MPEP § 103V. "Petition for Access" (cited by Petitioner) allows for access in "special circumstances," 37 C.F.R. § 1.14(h). However, 37 C.F.R. § 1.14(h) (2) requires:

> A showing ... that special circumstances exist which warrant petitioner being granted access to all or part of the application.

MPEP § 103V. provides that:

> Each petition should show not only why access is desired, but also why petitioner believes he or she is entitled to access.

Continuing with MPEP § 103V.:

> "Special circumstances" could be found where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers.

However, Petitioner merely states in its Petition, through its attorney, that the July 23, 2008 To Whom It May Concern letter:

> was sent to a supplier for the petitioner, thereby interfering with petitioner's business

but does not provide any facts to the Office to support this conclusion that "interference" has occurred. Rather than providing the Office with declarations of facts or any other evidence

showing the existence of actual interference with its business so that the Office can make an independent analysis and judgement to determine if special circumstances exist, Petitioner apparently asks the Office to take its word that the letter has "interfered with its business." Neither the case law cited by Petitioner nor any other case law supports such a result.

In particular, in the case of Ex parte Bonnie-B Co., Inc. 1923 C.D. 42 cited by Petitioner, the applicant sent the Bonnie-B Co., Inc., a notice of infringement, which is not the case here. Merely stating that patent applications exist and are in full force (i.e., not abandoned) as was done in the July 23, 2008 To Whom It May Concern letter is not a notice of infringement.

The second case cited by Petitioner, In re Application for Trimless Cabinets, 128 USPQ 95 (1960), held that the:

> . . . fact that one notifies specific individuals that there is a pending application, which may cover product which individuals make, use, or sell, is not such interference as to warrant waiver of secrecy guaranteed by statute and Patent Office Rule 14,; thus, petition for access to application is denied.

In this case, Standard Fire Hose Company sent a letter to petitioner stating that Trimless Cabinets manufactured by the petitioner are an infringement of the claims of an application which Standard has pending. However, no allegation of infringement is included in the July 23, 2008 To Whom It May Concern letter about which Petitioner complains.

Petitioner also cites the case of In re Crossman, Kenrick and LeMieux, 187 USPQ 367 (1975) to support its allegation of interference. In that case, the applicant sent a letter indicating that Brunswick Corp. would take prompt action to stop such sales when its patent issues. It was held that:

> it does not appear that Brunswick's warnings to petitioner and its actual or potential customers exceeded the bounds of propriety, or amounted to anything more than fair notice that it intended to enforce its patents when and if obtained on the subject applications. In short, petitioner has not demonstrated "special circumstances" justifying exception to the statutory mandate relating to confidential status of applications

Once again, the July 23, 2008 To Whom It May Concern letter does not include any statement of an intent to enforce patents against anyone.

Turning now to the last case cited by Petitioner to support its position, the Gardener v. Gendel case was a district court case that pertained to an unfair competition claim. In the Gardener case, the applicant sent a letter to customers of Gardener informing the recipients that they were infringing "patent rights" and the letter directly threatened the recipients with an action for patent infringement. However, there were no patent rights at that time.

Once again, the July 23, 2008 To Whom It May Concern letter relied upon by Petitioner does not contain any threat of an action for patent infringement. That letter does not support any finding of "special circumstances." There is no statement alleging any present existence of patent rights, any intent to enforce any patents or future patents against the recipient of the letter, or anything else that may qualify as "special circumstances."

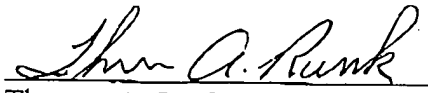
In summary, Petitioner has not cited a single precedent by the Office or courts that support the finding of special circumstances in this case. All cases cited by Petitioner are based on the factual situation of alleging infringement or the express mention of an intent to enforce patents (which was found to not be "special circumstances").

In reviewing the July 23, 2008 To Whom It May Concern letter more closely, applicant would like to point out to the Office that no addressee is given, other than To Whom It May Concern. The subject block of the letter ("Re") merely states on its first line "Status of U.S. Patent Applications." The writer of the letter merely confirms in the body that applications are pending and in full force (not abandoned). There is nothing further in the letter to indicate to whom the letter was sent or delivered or for what purpose. Indeed, given the information provided in the letter alone, it appears to be a status letter for the patent applications of the applicant. Such status letters can have various purposes, one of which is to obtain financing for a company. Another is to reassure existing or potential investors that patent applications have been filed and remain in force at the USPTO. Another possible purpose is to inform or reassure a potential supplier that investing in the production of a material can be rewarded by the protection provided by possible future patents. None of these possible uses for the July 23, 2008 To Whom It May Concern letter support a finding of "special circumstances" by the Office and Petitioner has not provided any facts to the Office to indicate otherwise.

It was Petitioner's obligation to provide the Office with a showing that the July 23, 2008 To Whom It May Concern letter actually interfered with its business. Petitioner did not inform the Office of the circumstances under which the supplier received the July 23, 2008 To Whom It May Concern letter, although Petitioner could have done so. Petitioner did not name the supplier who received the July 23, 2008 To Whom It May Concern letter so that applicant could respond, although Petitioner could have done so. Petitioner did not provide the Office with facts about any negative effects the July 23, 2008 To Whom It May Concern letter had on the supplier, although Petitioner could have done, so if there were any. And Petitioner did not provide the Office with facts about how its business was interfered with by the letter, although it could have done so, if there really was any interference. In short, Petitioner had access to any facts that existed to support its position of business interference, yet Petitioner has chosen to remain silent about those facts. Applicant requests that this silence be construed against the Petitioner as an indication that there was no such business interference, and the petition denied.

In conclusion, applicant asserts that Petitioner has not met its obligation to make a showing that "special circumstances exist which warrant petitioner being granted access to all or part of the application," or its obligations to "show not only why access is desired, but also why petitioner believes he or she is entitled to access" under MPEP § 103V. Accordingly, applicant objects to granting the petition and requests that it be denied.

Respectfully submitted,
FULWIDER PATTON LLP

By: 
Thomas A. Runk,
Registration No. 30,679

TAR/jb

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www.uspto.gov

Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

COPY MAILED

JUN 0 9 2008

In re Application of :
Christopher R. Tilton :
Application No. 11/945,166 : DECISION ON PETITION
Filed: November 26, 2007 : TO WITHDRAW
Attorney Docket No. EFRST-002A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 18, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark B. Garred on behalf of all attorneys/agents associated with customer number 07663. All attorneys/agents associated with customer number 07663 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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: Earth First Industries, Inc.
31498 Juliana Farms Road
San Juan Capistrano, CA 92675

cc: John B. Stephens
Stephens Friedland, LLP
4695 MacArthur Court
Suite 310
Newport Beach, CA 92660

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
11/945,166	11/26/2007	Christopher R. Tilton	EFRST-002A

CONFIRMATION NO. 6883

POWER OF ATTORNEY NOTICE

7663
STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

Date Mailed: 06/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/18/2008.

- 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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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

(For Applicant)

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

(For Third Party Requester)

MAILED

MAR 23 2009

OFFICE OF PETITIONS

Applicant: CHRISTOPHER R. TILTON
Appl. No.: 11/945,166
Filing Date: November 26, 2007
U.S. Publication No.: US 20090045210 A1
Pub. Date: February 19, 2009
Title: PLIABLE GROUND CALCIUM CARBONATES STORAGE ARTICLES AND METHOD OF MAKING SAME
Attorney Docket No.: ERTHF-79867

This is in response to the "Petition for Access Under 37 CFR 1.14(h[sic i])" which was received on October 17, 2008, and applicant's "Objection to the Petition for Access" received on January 29, 2009, for the above-identified application.

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED as moot.**

DECISION

MPEP § 106 states:

> The assignee of record of the entire interest in an application may intervene in the prosecution of the application, appointing an attorney or agent of his or her own choice. See 37 CFR 3.71. Such intervention, however, does not exclude the applicant from access to the application to see that it is being prosecuted properly, unless the assignee makes specific request to that effect. Any request to prevent the inventor from obtaining access to the file should be filed as a separate paper, 37 CFR 1.4(c), and should be directed to the Office of Petitions. If the request is granted, the inventor will be informed that he or she will only be permitted to inspect the application on sufficient showing why such inspection is necessary to conserve his or her rights, *In re The Kellogg Switchboard & Supply Company,* 1906 C.D. 274 (Comm'r Pat. 1906). *Of course, after the application has published pursuant to 35 U.S.C. 122(b), the application will be available to the public and any restriction on the inventor to access his or her application previously granted will no longer be in effect.*

Therefore, because the application has already issued as U.S. Publication No.: US 20090045210 A1, published on February 19, 2009, the petition is moot.

CONCLUSION

1. The petition is **DISMISSED as moot.**

2. Inquiries relating to this matter may be directed to the undersigned at (571) 272-7759.

JOSEPH F. WEISS, JR.
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

FULWIDER • PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CALIFORNIA 90045
(310) 824-5555 • (310) 824-9696 FAX

FACSIMILE TRANSMISSION

Date: January 29, 2009

		Telephone	Facsimile
To:	Commissioner for Patents Attn: Office of Patent Legal Administration /Joseph F. Weiss, Jr.	571-272-7759	571-273-0100

CONFIDENTIALITY NOTICE

THE DOCUMENTS ACCOMPANYING THIS TELECOPY TRANSMISSION CONTAIN CONFIDENTIAL INFORMATION BELONGING TO THE SENDER WHICH IS LEGALLY PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS TELECOPIED INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR RETURN OF ORIGINAL DOCUMENTS TO US.

From: Thomas A. Runk

Re: Filing of:
OBJECTION TO PETITION FOR ACCESS
U.S. Application No. 11/945,166
Filing Date: November 26, 2007
Title: PLIABLE GROUND CALCIUM CARBONATES STORAGE ARTICLES AND METHOD OF MAKING SAME
Inventor: Christopher R. Tilton

Client/Matter: ERTHF-79867

Number of pages (Incl. this page): 6

If You Do Not Receive All Pages, Please Call Joyce Buxbaum at (310) 824-5555, Ext. 683

☐ Original to follow ☒ Original will NOT follow

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (571) 273-0100)
on January 29, 2009.

Typed or printed name of person signing this certificate

Thomas A. Runk

Signature Thomas A. Runk

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. (571) 273-0100) on January 29, 2009.

Typed or printed name of person signing this certificate

Thomas A. Runk

Signature Thomas A. Runk

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	:	Christopher R. Tilton
Application No.	:	11/945,166
Filing Date	:	November 26, 2007
For	:	PLIABLE GROUND CALCIUM CARBONATES STORAGE ARTICLES AND METHOD OF MAKING SAME
Legal Advisor	:	Joseph F. Weiss, Jr.
Art Unit	:	3728
Confirmation No.	:	6883
Docket No.	:	ERTHF-79867
Date:	:	January 29, 2009

OBJECTION TO PETITION FOR ACCESS

Commissioner for Patents
United States Patent And Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By Facsimile: 571-273-0100

ATTN: Office of Patent Legal Administration/Joseph F. Weiss, Jr.

Dear Sir:

This is in response to the THREE WEEK LETTER dated January 8, 2009 from the Office. Applicant objects to granting the "Petition for Access to Unpublished Patent Applications" dated October 16, 2008 by One Source Industries.

In its petition, One Source Industries fails to show the existence of any "special circumstances" that would justify the Office in denying Applicant the confidentiality of its application that is provided under 35 U.S.C. § 122(a). Petitioner One Source Industries bases its allegation of "special circumstances" on a letter addressed to "To Whom It May Concern" dated June 23, 2008. The letter states that Earth First Industries Incorporated has filed patent applications with the Office and that those applications "are pending at the U.S. Patent and Trademark Office ("USPTO") and are in full force." Petitioner has taken the trouble to underline and bold the words "and are in full force" without explanation of the reason for doing so. In fact, "in full force" simply means that the application is not abandoned, that all applicable fees have been paid, that any Office Actions have been responded to, that all Office requirements have been met, and that the Office designates the application as pending. Notably, that letter contains no allegation of infringement by Petitioner or its supplier of any patent application.

MPEP § 103V. "Petition for Access" (cited by Petitioner) allows for access in "special circumstances," 37 C.F.R. § 1.14(h). However, 37 C.F.R. § 1.14(h) (2) requires:

> A showing ... that special circumstances exist which warrant petitioner being granted access to all or part of the application.

MPEP § 103V. provides that:

> Each petition should show not only why access is desired, but also why petitioner believes he or she is entitled to access.

Continuing with MPEP § 103V.:

> "Special circumstances" could be found where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers.

However, Petitioner merely states in its Petition, through its attorney, that the July 23, 2008 To Whom It May Concern letter:

> was sent to a supplier for the petitioner, thereby interfering with petitioner's business

but does not provide any facts to the Office to support this conclusion that "interference" has occurred. Rather than providing the Office with declarations of facts or any other evidence

showing the existence of actual interference with its business so that the Office can make an independent analysis and judgement to determine if special circumstances exist, Petitioner apparently asks the Office to take its word that the letter has "interfered with its business." Neither the case law cited by Petitioner nor any other case law supports such a result.

In particular, in the case of Ex parte Bonnie-B Co., Inc. 1923 C.D. 42 cited by Petitioner, the applicant sent the Bonnie-B Co., Inc., a notice of infringement, which is not the case here. Merely stating that patent applications exist and are in full force (i.e., not abandoned) as was done in the July 23, 2008 To Whom It May Concern letter is not a notice of infringement.

The second case cited by Petitioner, In re Application for Trimless Cabinets, 128 USPQ 95 (1960), held that the:

> . . . fact that one notifies specific individuals that there is a pending application, which may cover product which individuals make, use, or sell, is not such interference as to warrant waiver of secrecy guaranteed by statute and Patent Office Rule 14,; thus, petition for access to application is denied.

In this case, Standard Fire Hose Company sent a letter to petitioner stating that Trimless Cabinets manufactured by the petitioner are an infringement of the claims of an application which Standard has pending. However, no allegation of infringement is included in the July 23, 2008 To Whom It May Concern letter about which Petitioner complains.

Petitioner also cites the case of In re Crossman, Kenrick and LeMieux, 187 USPQ 367 (1975) to support its allegation of interference. In that case, the applicant sent a letter indicating that Brunswick Corp. would take prompt action to stop such sales when its patent issues. It was held that:

> it does not appear that Brunswick's warnings to petitioner and its actual or potential customers exceeded the bounds of propriety, or amounted to anything more than fair notice that it intended to enforce its patents when and if obtained on the subject applications. In short, petitioner has not demonstrated "special circumstances" justifying exception to the statutory mandate relating to confidential status of applications

Once again, the July 23, 2008 To Whom It May Concern letter does not include any statement of an intent to enforce patents against anyone.

Turning now to the last case cited by Petitioner to support its position, the Gardener v. Gendel case was a district court case that pertained to an unfair competition claim. In the Gardener case, the applicant sent a letter to customers of Gardener informing the recipients that they were infringing "patent rights" and the letter directly threatened the recipients with an action for patent infringement. However, there were no patent rights at that time.

Once again, the July 23, 2008 To Whom It May Concern letter relied upon by Petitioner does not contain any threat of an action for patent infringement. That letter does not support any finding of "special circumstances." There is no statement alleging any present existence of patent rights, any intent to enforce any patents or future patents against the recipient of the letter, or anything else that may qualify as "special circumstances."

In summary, Petitioner has not cited a single precedent by the Office or courts that support the finding of special circumstances in this case. All cases cited by Petitioner are based on the factual situation of alleging infringement or the express mention of an intent to enforce patents (which was found to not be "special circumstances").

In reviewing the July 23, 2008 To Whom It May Concern letter more closely, applicant would like to point out to the Office that no addressee is given, other than To Whom It May Concern. The subject block of the letter ("Re") merely states on its first line "Status of U.S. Patent Applications." The writer of the letter merely confirms in the body that applications are pending and in full force (not abandoned). There is nothing further in the letter to indicate to whom the letter was sent or delivered or for what purpose. Indeed, given the information provided in the letter alone, it appears to be a status letter for the patent applications of the applicant. Such status letters can have various purposes, one of which is to obtain financing for a company. Another is to reassure existing or potential investors that patent applications have been filed and remain in force at the USPTO. Another possible purpose is to inform or reassure a potential supplier that investing in the production of a material can be rewarded by the protection provided by possible future patents. None of these possible uses for the July 23, 2008 To Whom It May Concern letter support a finding of "special circumstances" by the Office and Petitioner has not provided any facts to the Office to indicate otherwise.

It was Petitioner's obligation to provide the Office with a showing that the July 23, 2008 To Whom It May Concern letter actually interfered with its business. Petitioner did not inform the Office of the circumstances under which the supplier received the July 23, 2008 To Whom It May Concern letter, although Petitioner could have done so. Petitioner did not name the supplier who received the July 23, 2008 To Whom It May Concern letter so that applicant could respond, although Petitioner could have done so. Petitioner did not provide the Office with facts about any negative effects the July 23, 2008 To Whom It May Concern letter had on the supplier, although Petitioner could have done, so if there were any. And Petitioner did not provide the Office with facts about how its business was interfered with by the letter, although it could have done so, if there really was any interference. In short, Petitioner had access to any facts that existed to support its position of business interference, yet Petitioner has chosen to remain silent about those facts. Applicant requests that this silence be construed against the Petitioner as an indication that there was no such business interference, and the petition denied.

In conclusion, applicant asserts that Petitioner has not met its obligation to make a showing that "special circumstances exist which warrant petitioner being granted access to all or part of the application," or its obligations to "show not only why access is desired, but also why petitioner believes he or she is entitled to access" under MPEP § 103V. Accordingly, applicant objects to granting the petition and requests that it be denied.

Respectfully submitted,
FULWIDER PATTON LLP

By: _____
Thomas A. Runk,
Registration No. 30,679

TAR/jb

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696

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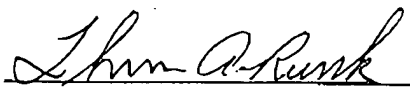
In conclusion, applicant asserts that Petitioner has not met its obligation to make a showing that "special circumstances exist which warrant petitioner being granted access to all or part of the application," or its obligations to "show not only why access is desired, but also why petitioner believes he or she is entitled to access" under MPEP § 103V. Accordingly, applicant objects to granting the petition and requests that it be denied.

Respectfully submitted,
FULWIDER PATTON LLP

By: 
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SALT LAKE CITY UT 84111

In re Application of: ROMERO, Michelle, et al. :
U.S. Application No.: 11/945,174 :
Filing Date: November 26, 2007 : DECISION
Atty Docket No.: 171442.1 :
For: SYSTEMS AND METHODS FOR :
CUSTOMIZING HANDBAGS :

This decision is issued in response to the "Petition To Convert Application To A Filing Under 35 U.S.C. 371" filed September 17, 2008, treated as a petition under 37 CFR 1.181 to have the present application treated as a U.S. national stage application filed under 35 U.S.C. 371. No petition fee is required.[1]

BACKGROUND

On November 21, 2007, applicants filed international application PCT/US2007/085339. The international application claimed an earlier priority date of March 20, 2007, and it designated the United States. The deadline for submission for requesting entry into the U.S. national phase and payment of the basic national fee is thirty months from the priority date, i.e., September 20, 2009.

On November 26, 2007, applicants initiated the present application using the EFS-Web electronic filing system. Among the materials filed by applicants were a specification that identified the application as "a U.S. National Sage Patent Application corresponding to PCT Application No. PCT/US2007/85339, filed on November 21, 2007." Also included in the submission was an application data sheet (ADS) that did not identify the application as a national stage of the PCT application, but rather included a foreign priority claim under 35 U.S.C. 119(b) directed to the PCT application.

During the electronic filing process, applicants identified the present application as a "Utility" application filed under 35 U.S.C. 111(a), rather than a national stage application filed under 35 U.S.C. 371. Accordingly, the application was processed by the USPTO as a filing under 35 U.S.C. 111(a).

On December 14, 2007, the USPTO mailed a filing receipt.

[1] Applicants submitted a $130 petition fee with the present petition. This fee will be refunded to Deposit Account No. 23-3178

On September 17, 2008, applicants filed the petition considered herein. The petition asserts that the present application should be treated as a U.S. national stage application filed under 35 U.S.C. 371 and requests correction of USPTO records accordingly.

DISCUSSION

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):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise the submission will be considered as being made under 35 U.S.C. 111(a).

Section 1893.03(a) of the MPEP states (emphasis added):

> **If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).**

Here, while the specification filed by applicants identifies the application as a national stage application filed under 35 U.S.C. 371, the ADS included a foreign priority claim directed to the international application, a claim that is not consistent with a national stage filing. See MPEP section 1893.03(c): "a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application." Moreover, during the electronic filing process, applicants selected the application identifier "Utility (Utility under 35 USC 111(a))," rather than the separate application identifier specifically applicable to national stage applications filed under 35 U.S.C. 371. This is evident from the Electronic Acknowledgement Receipt generated at the time of filing, which identifies the application as a "Utility" application rather than a U.S. national stage application filed under 35 U.S.C 371.

Applicants' identification of the application during the electronic filing process as a utility application filed under 35 U.S.C. 111(a), as well as the foreign priority claim contained in the ADS, are conflicting instructions that are not consistent with the intent to file a U.S. national stage application under 35 U.S.C. 371. Accordingly, pursuant to the policy set forth in MPEP section 1893.03(a), the present application is properly treated by the USPTO as a filing under 35 U.S.C. 111(a). Applicants' request to have the application converted to a filing under 35 U.S.C. 371 is therefore appropriately dismissed.

CONCLUSION

The petition under 37 CFR 1.181 to have the present application treated as a U.S. national stage filed under 35 U.S.C. 371 is **DISMISSED** without prejudice.

The present application will continue to be treated as a U.S. application filed under 35 U.S.C. 111(a).

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include an adequate showing that applicants' November 26, 2007 submission did not include any conflicting instructions as to whether the application was to be treated as a filing under 35 U.S.C. 111(a) or a filing under 35 U.S.C. 371.

Please direct further correspondence with respect to this petition to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Ki Seog Kim. :
Application No 11/945,206 : DECISION ON PETITION
Filed: November 26, 2007 :
Attorney Dkt. No: 00939C-091910US :
For: Flash Memory Device and Method of :
Fabricating the Same :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 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 in a Nonprovisional Application (Notice), mailed December 13, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2008. A Notice of Abandonment was mailed on August 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed declaration and $130 surcharge fee (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

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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MICHAEL R. HENSON & ASSOCIATES, LLC
5613 DTC POARKWAY, SUITE 240
GREENWOOD VILLAGE, CO 80111

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of

Craig D. **JENKINS, et al.**
Application No. 11/945,252
Filed: November 26, 2007
Attorney Docket No. **JNK.npl**

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 31, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael R. Henson, the sole attorney of record. Michael R. Henson has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor Craig Jenkins at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **CRAIG D. JENKINS**
8789 WEST CORNELL AVENUE, #10-6
LAKEWOOD, CO 80227

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Nitin Agarwal	: DECISION ON REQUEST FOR
Patent Number	: 7595744	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/945,278	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JJGJr: 09-05

Paper No: __

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of
Bowman et al.
Application No. 11/007,641
Filed: 8 December, 2004
Attorney Docket No.: 8274-030

: DECISION ON PETITION

This is a decision on the petition filed on 10 August, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

NOTE: Petitioner is requested to place his telephone and mail contact information on papers submitted to facilitate contact when required.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 8 December, 2004, absent, *inter alia*, a fully executed oath/declaration;
- on 6 January, 2005, the Office mailed a Notice of Missing Parts, indicating therein, *inter*

alia, a two-month period for reply absent extension of time;

- on 10 August, 2005, Petitioner Edward W. Rilee (Reg. No. 31,869) filed (with a request and fee for extension of time) an oath/declaration signed by co-inventors Bowman, Underwood, Wilburn and Kingsley (on behalf of themselves and), but without the signature of non-signing inventor Patrick A. Dwyer (Mr. Dwyer), and with a statement by Petitioner as to the process of sending the entire application (description, claims, abstract and drawings) for review, with the oath/declaration for signature, supported said statement with a copy of the transmittal letters (only the last of which clearly evidences said transmittal), and set forth the last known and valid current address of the non-signing inventor.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Kamiya et al. :
Application No. 11/945,403 : DECISION ACCORDING STATUS
Filed: November 27, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 31411/04007 :

This decision is in response to the petition filed March 3, 2008 under 37 CFR 1.47(b).

The petition is **GRANTED**,

The above-identified application was filed on November 27, 2007. The application named Hiroyuki Kamiya and Kenta Kamoshida as joint inventors but was filed without an executed oath or declaration. A Notice to File Missing Parts was mailed December 31, 2007 requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

In response to the Notice to File Missing Parts, a petition under 37 CFR 1.47(b) received March 3, 2008 with a certificate of mail date of February 29, 2008, the applicant shows that a copy of the application papers were sent to the non-signing inventors and that to date, applicants have not received an executed copy of the declaration back from them. This petition is filed alleging that the joint inventors refuse to sign the oath /declaration and seeks status under 37 CFR 1.47(b).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition is accompanied by proof that the application materials have been sent to the non-signing inventors, the petition fee, the last known addresses for Mr. Kamiya and Mr. Kamoshida and a declaration executed by C.P. Ting, Director, the assignee, in the absence of a signature by the joint inventors, a copy of the assignment previously executed by the joint inventors to show proprietary interest and a statement that the application is filed to preserve the applicants rights in the application and to prevent irreparable harm. Finally, petitioner has submitted a signed statement under 37 CFR 3.73(b).

Petitioners are advised that the fee for a petition under 37 CFR 1.47(b) is set at $200 and not $130.00 as indicated in the petition. In view thereof and in view of the authorization to charge petitioner's deposit account for any deficiencies, deposit account no. 03-0172 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which was due.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). In view thereof, this application is hereby accorded Rule 1.47(b) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OCT 26 2009

OFFICE OF PETITIONS

CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899

In re Application of :
Tyson, et al. :
Application No. 11/945,414 : DECISION GRANTING PETITION
Filed: November 27, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 70014-00034 :

This is a decision on the petition, filed September 9, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 29, 2006. 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 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

This application is being forwarded to Technology Center Art Unit 2875 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/945,414	11/27/2007	GLENN M. TYSON	70014-00034

CONFIRMATION NO. 7341

58688
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

NONPUBLICATION RESCISSION LETTER

OC000000038403635

Date Mailed: 10/21/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/28/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/kathornton mclaughl/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 3020
BOCA RATON FL 33487

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of
Allen, et al.
Application No. 11/945,421
Filing Date: November 27, 2007
Atty. Dkt No.: RSW920070303US1
(351)

ON PETITION

This is a decision on the petition, filed January 9, 2008, to accord the above-identified application a filing date of November 27, 2007 with Figure 3 as part of the application papers originally filed.

The petition, as it concerns entry of Figure 3 with a date of deposit of November 27, 2007, is hereby DISMISSED.

The application was filed on November 27, 2007. On December 17, 2007, the Office of Initial Patent Examination ("OIPE") mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice") indicating that the application had been accorded a filing date of November 27, 2007 but that Figure 3 of the drawings appeared to be omitted from the application as filed.

The Notice instructed applicants on how to petition for a date of deposit, how to petition for a later filing date, and what to do to accept the application as deposited without the omitted item.

Petitioners herein request the earlier filing date with entry of Figure 3. Petitioners, however, have provided no evidence to establish that Figure 3 was part of the original application papers originally filed.

The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. A

review of the official file reveals that Figure 3 was not among the papers received on November 27, 2007.

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 that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503). Petitioners, however, have not presented such a postcard.

Accordingly, the application is entitled to a filing date of November 27, 2007 without Figure 3 as part of the disclosure of application.

Petitioners are advised to promptly submit a preliminary amendment canceling reference to Figure 3 of the drawings prior to the issuance of the first Office action on the merits to avoid further delays in examination.

Or, if petitioners desire to have Figure 3 of the drawings made part of the disclosure of application, petitioners are advised to promptly submit a renewed petition requesting a later filing date of January 9, 2008, the date that Figure 3 was presented.

Or, petitioners may present evidence of receipt in the form of a copy of a return postcard acknowledging USPTO receipt of the item in question by way of renewed petition.

Any request for reconsideration must be submitted within two months of the mail date of the instant decision on petition. The time period for seeking reconsideration is not subject to extension by way of 37 CFR 1.136.

The petition fee submitted herewith will not be refunded as the petition was not necessitated due to Office error.

This application is being directed to the OIPE for further processing with a filing date of November 27, 2007, without entry of Figure 3 of the drawings into the record.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Mark Bettin	: DECISION ON REQUEST FOR
Patent Number	: 7576665	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/945,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN TX 78758

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Doan et al. :
Application No. 11/945,483 : ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. AUS920050060US3 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

The address listed on the petition differs from the new correspondence address of record. Accordingly, a courtesy copy will be mailed to the address listed on the petition; all future correspondence will be mailed solely to the new correspondence address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: LYNNE D. ANDERSON
IBM CORPORATION
333 JOHN CARLYLE STREET, SUITE 635
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 24 2010

OFFICE OF PETITIONS

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of
Ryuji Masuda, et al.
Application No. 11/945,503
Filed: November 27, 2007
Attorney Docket No. 1631354-0003

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 2010.

The request is **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 Wendi R. Schepler on behalf of all attorneys of record who are associated with customer No. 07470. All attorneys/agents associated with the Customer Number 07470 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 Ryuji Masuda at the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: RYUJI MASUDA
CASDEX INC.
5235 MISSION OAKS BLVD.,
SUITE 411
CAMARILLO, CA 93012

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
11/945,503	11/27/2007	Ryuji Masuda	1631354-0003

CONFIRMATION NO. 7507

POWER OF ATTORNEY NOTICE

7470
WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

OC000000041670017

Date Mailed: 05/18/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/25/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,523	11/27/2007	Kuniaki Sueoka	JP920070094US1	7538

48915 7590 12/18/2007
CANTOR COLBURN LLP-IBM YORKTOWN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
12/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CST

12-18-07

In re application of :
Kuniaki Sueoka et al :
Serial No. 11/945,523 : DECISION ON PETITION
Filed: November 27, 2007 : TO MAKE SPECIAL
For: ORIENTED GRAPHITE FILM, METHODS :
OF MANUFACTURE THEREOF AND :
ARTICLES COMPRISING THE SAME :

This is a decision on the petition filed on November 27, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not in condition for examination. Note, specifically, the NOTICE TO FILE CORRECTED APPLICATION

PAPERS mailed on December 7, 2007, which indicates that the application was not in condition for examination at the time of filing.

MPEP 708.02(a), section VIII further states:

> The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (subsection II above) does not apply to applications that are not in condition for examination on filing.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 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

CST

2-21-08

In re application of
Kuniaki Sueoka et al
Serial No. 11/945,523
Filed: November 27, 2007
For: ORIENTED GRAPHITE FILM, METHODS OF MANUFACTURE THEREOF AND ARTICLES COMPRISING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on November 27, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DISMISSED.**

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner;

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition, section II, subsections 1-4, are considered to have been met. However, the petition fails to comply with condition II, subsections 5 and 6.

First, it appears that the search is incomplete. Note that a search in Class 428/subclasses 297.4 and 298.1 is required. Additionally, a search in Class 264/subclasses 29.2, 148, 105, 331.11, 235, 158 and 400 is also required.

Furthermore, with respect to the references discussed in the Accelerated Examination Support Document (AESD) on pages 4-6, although petitioner has disclosed the teachings of each of the patents, petitioner has not mapped the features of each claim to the references. Accordingly, it is not clear which features of the claims appear to be taught by the cited prior art.

Also, the statement showing support for the present claims on page 8 of the AESD is not sufficient. It is required that petitioner provide a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. Merely stating where support for claim 1, as a whole, is found in the specification is not sufficient.

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 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 Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

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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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,523	11/27/2007	Kuniaki Sueoka	JP920070094US1	7538

48915 7590 04/01/2008
CANTOR COLBURN LLP-IBM YORKTOWN
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
04/01/2008	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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CST

4-1-08

In re application of :
Kuniaki Sueoka et al :
Serial No. 11/945,523 : DECISION ON PETITION
Filed: November 27, 2007 : TO MAKE SPECIAL
For: ORIENTED GRAPHITE FILM, METHODS :
OF MANUFACTURE THEREOF AND :
ARTICLES COMPRISING THE SAME :

This is a decision on the Request for Reconsideration of the Petition to Make Special under the Accelerated Examination Program filed on March 21, 2008.

The petition to make the application special is **GRANTED.**

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,548	11/27/2007	Kenichi Douniwa	008312-0366673	7575

7590 09/11/2009

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
BANKS HAROLD, MARSHA DENISE	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/11/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 NFARMER
11/28/2007 INTEFSW 00000376 033975 11945548
02 FC:1111 510.00 CR

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

Applicant	: Jeffrey A. Sell	: DECISION ON REQUEST FOR
Patent Number	: 7630840	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/945,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **197** 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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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of :
Marvin A. Heuer, et. al. : DECISION DISMISSING STATUS
Application No. 11/945,588 : UNDER 37 CFR 1.47(a)
Filed: November 27, 2007 :
Attorney Docket No. 03490.000029. :

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2010.

The petition is **dismissed**.

Rule 47 applicant is given **TWO (2) MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached 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.

Petitioner states, "A "carbon copy" of that February 1, 2010 letter with all enclosures (e.g., specification and claims, plus declaration) was sent to Shan Chaudhuri at his home address of 1 Castle Mountain Drive, Brampton, ON L6R2Y1, Canada on February 11, 2010, also by Federal Express with delivery signature required. A copy of the February 1, 2010 letter is attached at Tab A. Attached at Tab B is a signed delivery receipt evidencing that Marguerite Ethier personally received the February 1, 2010 letter. The undersigned learned from Federal Express on February 16, 2010 that Mr.

Chaudhuri refused to accept his letter; it was returned to the undersigned as undeliverable on February 17, 2010."

A review of the evidence submitted fails to show that the Federal Express package mailed February 11, 2010 was ever refused by the non-signing inventor or that the package was returned by Federal Express as undeliverable. While petitioner states that the Federal Express package, with signature required, was mailed to the non-signing inventors last known address on February 11, 2010, the record fails to show any evidence that the application papers were received by Mr. Chaudhuri in which he refused; and therefore, failed to sign the declaration for the above application.

At the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Chaudhuri's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

It is further noted that Petitioner states, "the undersigned learned from Ms. Ethier that she has "no reason to believe" Mr. Chaudhuri would be signing the Declaration document. Moreover, it is understood Ms. Ethier is constrained from reporting a more complete answer by her attorney-client privilege and confidentiality requirements due to ongoing litigation."

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration. When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted. Whenever, an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration[1].

[1] *See* M.P.E.P. Section 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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1290 Avenue of the Americas
NEW YORK, NY 10104-3800

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JUL 15 2010

OFFICE OF PETITIONS

In re Application of :
Marvin A. Heuer, et. al. : DECISION DISMISSING STATUS
Application No. 11/945,588 : UNDER 37 CFR 1.47(a)
Filed: November 27, 2007 :
Attorney Docket No. 03490.000029. :

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 18, 2010.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor refuses 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.

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

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P.O. Box 1450
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Shan Chaudhuri
1 Castle Mountain Drive
Brampton, ON L6R2Y1 CANADA

MAILED

JUL 15 2010

OFFICE OF PETITIONS

In re Application of
Marvin A. Heuer, et. al.
Application No. 11/945,588
Filed: November 27, 2007
For: COMPOSITION FOR IMPROVING BLOOD FLOW IN WORKING MUSCLES

Dear Mr. Chaudhuri:

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) 272-3226. 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).

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Fitzpatrick Cella Harper & Scinto
1290 Avenue Of The Americas
New York, NY 10104-3800

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,625	11/27/2007	Stacy L. Arrington	RPS920070213US1	7705

59369 7590 12/17/2007

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER	
ART UNIT	PAPER NUMBER
2853	

MAIL DATE	DELIVERY MODE
12/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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122007

CANTOR COLBURN LLP - IBM RESEARCH TRIANGLE PARK
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

DEC 17 2007

In re Application of: Stacy L. Arrington et al. Serial No.: 11/945,625 Filed: November 27, 2007 Docket: RPS920070213US1 Title: TOOLLESS THERMAL PRINT HEAD MOUNTING APPARATUS	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

This is a decision on the petition filed on November 27, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. §1.102(d) and M.E.P.E.P. §708.02(a).

The petition to make the application special is DISMIISED.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. §1.102(d), M.P.E.P. §708.02(a) 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 C.F.R. §1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 C.F.R. §1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner;

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation; and

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 C.F.R. §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 C.F.R. §1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists; and

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The application is eligible for the accelerated examination program as set forth in section I above.

The petition meets conditions II.1 through II.4, and II.6 above. However, the petition does not meet conditions II.5 above.

Regarding the conditions set forth in II.5 above, the petition indicates that "[t]he pre-examination search was directed to the claimed invention, encompassing all the features of the claims and giving the claims their broadest reasonable interpretation." However, a review of the search logic outlined in the pre-examination search document is limited to "print head" as recited in the claims and was not expanded to include other equivalent terminology such as "printhead," "printing head," "recording head," "print engine, "recording engine." etc. As such, the noted terminology must be included in the search logic in order to encompass "the print head" recited in the claims and to satisfy the requirement that the search encompasses all the features of the claims as required under conditions II.5.2 above.

It is noted that the US classification search should include class 347, subclass 197 (thermal printer recording comprising a mechanism for supporting or moving the recording means from an operative position in which the recording means is pressed against the record receiver to an inoperative position in which the recording means is released from pressing engagement with the record receiver), subclass 198 and class 400, subclass 120.16 (thermal printer recording comprising a mechanism for holding or moving the recording means from an operative position in which the recording means is pressed against the record-medium to an inoperative position in which the recording means is released from pressing engagement with the record-medium) and subclass 120.17. Also, International Class B41J 25/34 is where the claimed invention would be classified in the international databases.

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) is available) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal

of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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TECHNOLOGY CENTER 3600

Foley & Lardner LLP
150 East Gilman Street
P.O. Box 1497
Madison, WI 53701-1497

In re application of
Jing Li
Application No. 11/945,650
Filed: November 27, 2007
For: METHOD AND SYSTEM FOR A TRAFFIC MANAGEMENT SYSTEM BASED ON MULTIPLE CLASSES

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on November 27, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition fails to comply with conditions II.5.2, II.6.3 and II.6.5, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, there does not appear to be an adequate classification search. A proper classification search for this invention needs to include a search of 340/995.1 – 340/995.13 as well as 342/454 and 342/456.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references taken separately, which also includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. Specifically, claims 3, 9 and 15 are indicated as being patentable because publication '880 fails to teach that "the user classification may be based on a subscription fee". However, on page 30 of the Support Document, applicant admits that publication '880 teaches exactly that. Clarification is needed. How the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how is needed, or a statement made that the dependent claims are not separately patentable. Likewise, regarding claims 5, 11 and 17 the Support Document indicates that the prior art fails to teach limitations a) – e). However, at least some of these limitations (or portions of them) are indicated as taught by the submitted prior art (at least page 24 of the Support Document, for example), so it Is not clear why applicant feels that the entirety of these claims are not taught by the prior art when the Disclosure Document indicates otherwise. It also looks like the limitations that are indicated as making claims 1, 7 and 13 patentably distinct from the prior art may be at least partially taught by the prior art of record.

As to condition II.6.5, a showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is required. For each claimed limitation (including dependent claims) the petition needs to identify specific passages, or at least a single paragraph where each limitation provides support. While the above has been supplied for this application, similar support (if any) for the claimed invention must additionally be shown in the parent application upon which priority is claimed under 35 USC 120. Specifically, for application 11/738,712, a listing of where the limitations of the claims find support is necessary.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 12/16/07

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Foley & Lardner LLP
150 East Gilman Street
P.O. Box 1497
Madison, WI 53701-1497

In re application of
Jing Li
Application No. 11/945,650
Filed: November 27, 2007
For: METHOD AND SYSTEM FOR A TRAFFIC MANAGEMENT SYSTEM BASED ON MULTIPLE CLASSES

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the renewed petition filed on January 16, 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 **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed to a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue

fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers
Special Program Examiner
Technology Center 3600

Sm/sm: 11/28/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,655	11/27/2007	Tomoko Tsuji	20050/0208571-US0	7768

7278 7590 01/28/2010

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

EXAMINER	
ANDERSON, CATHARINE L	

ART UNIT	PAPER NUMBER
3761	

MAIL DATE	DELIVERY MODE
01/28/2010	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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P.O. BOX 770
Church Street Station
New York NY 10008-0770

In re Application of:
TSUJI, TOMOKO et al
Serial No. 11/945,655
Filed: Nov. 27, 2007
Docket: 20050/0208571-US0
Title: ABSORBENT ARTICLE AND COMPOSITE SHEET

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition filed October 31, 2008 requesting expunge of document. In the petition, petitioner requests expunge of documents as listed under the Information Disclosure Statement by Applicant filed on October 29, 2008 because the listed documents were filed by mistake in the IDS and was intended for another application, SN 11/950,899. This IDS filed on October 29, 2008 includes 4 Japanese foreign references.

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has mistakenly filed the wrong documents on October 31, 2008, the documents have been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Donald J. Hajec, Director
Technology Center 3700

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

8/20/09

In re Application of	:	
AKAGI, YOSHIHIKO et al	:	DECISION ON REQUEST TO
Application No. ~~11/945,667~~ 11/945657	:	PARTICIPATE IN PATENT
Filed: Nov. 27, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 056205.59644US	:	PROGRAM AND PETITION
For: THROTTLE VALVE CONTROLLER FOR INTERNAL COMBUSTION ENGINE	:	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 22, 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 Steve Cronin, Art Unit 3748, at 571-272-4536 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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ALEXANDRIA, VA 22320-4850

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OFFICE OF PETITIONS

In re Application of :
Hany Aziz, et. al. :
Application No. 11/945,698 : ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. 132549 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed April 1, 2009, to withdraw the holding of abandonment in the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Samuel Dangremond 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

A review of the record shows that a Notice to File Corrected Application Papers (Notice) was mailed on February 11, 2008, which set a period for reply of two (2) months. However, a response to the Notice was timely filed on April 11, 2008. Therefore, since petitioner timely filed a reply on April 11, 2008, which was within two months from the mail date of the Office action, this application is considered not abandoned.

In view of the above, the petition is **granted**.

This application file is being referred to the Office of Patent Application Processing for review/ consideration of the response filed on April 11, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

/Andrea Smith/
Andrea Smith
Petitions Examiner

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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In re Application of :
Li :
Application No. 11/945,704 : ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. TI-63230 :
For: SYSTEM AND METHOD FOR USE IN DISPLAYING MODULATED LIGHT

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed December 28, 2007, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on February 29, 2008. A Notice of Abandonment was mailed on September 12, 2008.

Applicant has submitted a proper reply to the December 28, 2007 Notice in the form of replacement drawings, an acceptable statement of the unintentional nature of the delay in responding to the December 28, 2007 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MCLEAN VA 22102-3833

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OFFICE OF PETITIONS

In re Application of :
Nishizawa, et al. :
Application No. 11/945,745 : DECISION
Filed/Deposited: 27 November, 2007 :
Attorney Docket No. XA-10138A :

This is a decision on the petition filed on 2 December, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

As is discussed below, the question herein is whether Petitioner received Notice of the non-final Office action—and, as will be seen, the answer is that Petitioner did.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action completed for mailing on 24 March, 2008 (and Email notification on 28 March, 2008), with reply due absent extension of time on or before 24 June, 2008.

The application went abandoned by operation of law after midnight 24 June, 2008.

The Office mailed the Notice of Abandonment on 3 October, 2008.

On 2 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, a statement of participation in electronic notification, a statement of search of the file and non-discovery, a copy of the docket sheet (or file jacket cover) for the instant application, and what appears to be (but is not described as) a copy of the firm due-date docket/calendar; but, *inter alia*, no description of the docketing system, no discussion of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence

> such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]
>
> ***

Moreover, a review of the matter by Office Electronic Business Center personnel reflects that notification indeed was provided to Petitioner on 28 March, 2008, of two Office transactions (the non-final Office action and publication), however, it appears that Petitioner may have looked no farther than in the record than the publication Notice—and, thus, ignored the non-final Office action.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

---

1 *See*: MPEP §711.03(c) (I)(A).

2 See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

CONCLUSION

Accordingly, The petition 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 terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,745	11/27/2007	Hirotaka NISHIZAWA	XA-10138A	7921

181 7590 03/24/2008

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER	
FUREMAN, JARED	
ART UNIT	**PAPER NUMBER**
2876	

NOTIFICATION DATE	DELIVERY MODE
03/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com
sstiles@milesstockbridge.com

Office Action Summary	Application No.	Applicant(s)	
	11/945,745	NISHIZAWA ET AL.	
	Examiner	Art Unit	
	Jared J. Fureman	2876	

– 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 _____.

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) *20-24* 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) *20-23* is/are rejected.

7)☒ Claim(s) *24* 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 *27 November 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 10/912,289.

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 *11/27/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of the preliminary amendment and IDS filed on 11/27/2008 and the supplemental preliminary amendment filed on 3/11/2008, all of which have been entered in the file. Claims 20-24 are pending.

1. The disclosure is objected to because of the following informalities:

On page 1, the cross-reference to related application (as presented in the preliminary amendment filed on 11/27/2007) should be updated to indicate that the parent application has now issued as U.S. Patent Number 7,308,588.

On page 1, lines 21-22: "US Application 10/476223" should be replaced with -- USP 7,185,145--, since this application has now issued as a U.S. Patent.

Appropriate correction is required.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (US 2001/0006902 A1). Ito teaches:

Re claim 20: A memory card (SD memory card 10, figure 2), comprising:

a controller (MPU 21a, figure 2) serving to provide an interface function between the memory card and outside the memory card;

a nonvolatile memory (flash memory 22, figure 2) coupled to the controller;

a microcomputer (link controller 21c, figure 2) being capable of operating by a non- contact interface signal;

a clock terminal (the signal pin labeled CLK in figure 2) which inputs an external clock signal to be transferred to the controller;

a supply voltage terminal (the signal pin labeled VDD in figure 2) which supplies a supply voltage to the microcomputer, and being spaced from the clock terminal by a first distance (see the spacing of the signal pins in figure 2);

a first antenna terminal and a second antenna terminal coupled to the microcomputer (while the details of the antenna connector are not shown in figure 2, first and second antenna terminals are necessarily present in order to provide electrical connections between the antenna module 12 (containing antenna 26) and the RF circuit 20), and each being spaced from the supply voltage terminal by a distance greater than the first distance (the antenna connector is located on a side of the memory card that is opposite the signal pins, see figure 2); and

a wiring board (not labeled, the substrate on which the components shown in figure 2 are mounted) on which the controller, the nonvolatile memory, the microcomputer, the clock terminal, the supply voltage terminal, and the first and second antenna terminals are mounted (see figures 1A-2 and paragraphs 32-42).

Re claim 21: A memory card according to claim 20, wherein the supply voltage terminal supplies a power supply voltage to the microcomputer (the VDD signal pin supplies an external power supply voltage to the link controller 21c, see figure 2).

Re claim 22: A memory card according to claim 20, wherein the microcomputer is coupled to the controller (the link controller 21c is coupled to the MPU 21a since they are both within controller LSI 21, see figure 2).

Re claim 23: A memory card according to claim 20, further comprising:

a data terminal (the signal pins labeled DAT0 and DAT1 in figure 2) for inputting and outputting data, and coupled to the controller,

wherein the data terminal and the clock terminal are arranged in a first line on the wiring board (the data and clock signal pins are arranged in a first line as shown in figure 2); and

wherein the first and second antenna terminals are arranged in a second line which is different from the first line (the antenna terminals are arranged in a second line as shown in figure 2).

Allowable Subject Matter

5. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken alone or in combination, fails to teach or fairly suggest a memory card wherein the supply voltage terminal is disposed between the first antenna terminal and the second antenna terminal.

While the prior art of record teaches various terminal configurations, without the benefit of Applicant's teachings, there is no motivation for one of ordinary skill in the art at the time of the invention to rearrange the terminals to dispose the supply voltage terminal between the first and second antenna terminals.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fruhauf (US 7,237,719 B2), Ookawa et al (US 6,585,166 B1), Arisawa (US 6,560,082 B1), Reiner (US 6,474,558 B1), Berger et al (US 6,168,083), Bashan et al (US 6,045,043), Nishikawa (US 2005/0212690 A1), Kashima (US 2002/0170974 A1), Harada et al (JP 2000-322544 A), Senba (EP 1 083 517 A2) and Ookawa et al (WO 01/01340 A1) all teach integrated circuit card having contact and contactless interfaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 8:00 am - 5:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. 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.

/Jared J. Fureman/
Primary Examiner, Art Unit 2876

March 14, 2008

Notice of References Cited	Application/Control No. 11/945,745	Applicant(s)/Patent Under Reexamination NISHIZAWA ET AL.	
	Examiner Jared J. Fureman	Art Unit 2876	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2001/0006902	07-2001	Ito, Takafumi	455/558
*	B	US-7,237,719	07-2007	Fruhauf, Serge F.	235/492
*	C	US-6,585,166	07-2003	Ookawa et al.	235/492
*	D	US-6,560,082	05-2003	Arisawa, Shigeru	361/84
*	E	US-6,474,558	11-2002	Reiner, Robert	235/492
*	F	US-6,168,083	01-2001	Berger et al.	235/492
*	G	US-6,045,043	04-2000	Bashan et al.	235/492
*	H	US-2005/0212690	09-2005	Nishikawa, Seiichi	340/932.2
*	I	US-2002/0170974	11-2002	Kashima, Masanori	235/492
	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 2000-322544 A	11-2000	Japan	Harada et al	----------
	O	EP 1 083 517 A2	03-2001	Europe	Senba	----------
	P	WO 01/01340 A1	01-2001	WO	Ookawa et al	----------
	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 500
MCLEAN VA 22102-3833

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Nishizawa, et al. :
Application No. 11/945,745 : DECISION
Filed/Deposited: 27 November, 2007 :
Attorney Docket No. XA-10138A :

This is a decision on the petition filed on 23 February, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

It appears that Petitioner's only alternative may be to file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that

guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

As is discussed below, the question herein is whether Petitioner received Notice of the non-final Office action—and, as will be seen, the answer is that Petitioner did but Petitioner's neglected to look for the Office action online.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action completed for mailing on 24 March, 2008 (and Email notification on 28 March, 2008), with reply due absent extension of time on or before 24 June, 2008.

The application went abandoned by operation of law after midnight 24 June, 2008.

The Office mailed the Notice of Abandonment on 3 October, 2008.

On 2 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, a statement of participation in electronic notification, a statement of search of the file and non-discovery, a copy of the docket sheet (or file jacket cover) for the instant application, and what appears to be (but is not described as) a copy of the firm due-date docket/calendar; but, *inter alia*, no description of the docketing system, no discussion of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and the petition was dismissed on 23 December, 2008.

On 23 February, 2009, Petitioner readvanced the petition pursuant to 37 C.F.R. §1.181, but was forced to acknowledge at page 5 of the petition that his office received a Notice on March 28, 2008, but did not look to see the 24 March, 2008, Office action.

Thus, it was not that Petitioner's office did not receive Notice, it was that Petitioner's office chose not to look at the 24 Mach, 2008, Office action.

The guidance in the Commentary at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

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STATUTES, REGULATIONS

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1 *See*: MPEP §711.03(c) (I)(A).

2 See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of :
Nishizawa, et al. :
Application No. 11/945,745 : DECISION
Filed/Deposited: 27 November, 2007 :
Attorney Docket No. XA-10138A :

This is a decision on the petition filed on 27 May, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

It appears that Petitioner's only alternative may be to file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that

guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

As is discussed below, the question herein is whether Petitioner received Notice of the non-final Office action—and, as will be seen, the answer is that Petitioner did but Petitioner's neglected to look for the Office action online.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (copy again enclosed) completed for mailing on 24 March, 2008 (and Email notification on 28 March, 2008), with reply due absent extension of time on or before 24 June, 2008.

On 27 March, 2008, the Office mailed a Notice of Publication. (It appears from Office records that both the 24 March, 2008, non-final Office action and the 27 March, 2008, Notice of Publication were uploaded into the Image File Wrapper (IFW) on 27 March, 2008, with Email notification occurring the next day.)

The application went abandoned by operation of law after midnight 24 June, 2008.

The Office mailed the Notice of Abandonment on 3 October, 2008.

On 2 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, a statement of participation in electronic notification, a statement of search of the file and non-discovery, a copy of the docket sheet (or file jacket cover) for the instant application, and what appears to be (but is not described as) a copy of the firm due-date docket/calendar; but, *inter alia*, no description of the docketing system, no discussion of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and the petition was dismissed on 23 December, 2008.

On 23 February, 2009, Petitioner readvanced the petition pursuant to 37 C.F.R. §1.181, but acknowledged at page 5 of the petition that his office received a Notice on March 28, 2008, but his office staff apparently did not look to see the 24 March, 2008, Office action. Thus, it was not that Petitioner's office did not receive Notice, it was that Petitioner's office failed to look at the 24 March, 2008, Office action. The petition was dismissed on 27 March, 2009.

On 27 May, 2009, Petitioner again re-advanced his petition, with no greater showings than before, rather arguing only that later Office refinements in Email notification that included an itemization of Office actions on the Email notice evidenced a defect in the system. Petitioner's contentions, though considered, are not persuasive. System improvements to the electronic notification system—such as the itemization of Office actions—are not an *indicia* or acknowledgment of defects, but refinements for the benefit of users.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Review of the matter by Office Electronic Business Center personnel reflected that notification indeed was provided to Petitioner on 28 March, 2008, of two Office transactions (the non-final Office action and publication). However, it appears that Petitioner's staff looked no farther than in the record than the publication Notice—and, thus, ignored the non-final Office action.

The fact that Petitioner's staff ignored the 24 March, 2008, Office action visibly present in the system does not constitute Office error.

Petitioner is reminded that the Office now has reviewed the matter on three (3) occasions and concluded on each of those reviews that Petitioner's showing does not satisfy the requirements of relief pursuant to 37 C.F.R. §1.181 consistent with the guidance in the Commentary at MPEP §711.03(c)(I). Thus, Petitioner's only apparent vehicle for relief appears to be a petition pursuant to 37 C.F.R. §1.137(b)—requiring a petition, fee, reply, statement of unintentional delay and,

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[1] *See*: MPEP §711.03(c) (I)(A).

where appropriate, a terminal disclaimer and fee. A copy of the 24 March, 2008, Office action has again been enclosed for Petitioner's consideration and reply.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

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

[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).

under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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

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.
11/945,745	11/27/2007	Hirotaka NISHIZAWA	XA-10138A	7921

181 7590 03/24/2008

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER	
FUREMAN, JARED	
ART UNIT	PAPER NUMBER
2876	

NOTIFICATION DATE	DELIVERY MODE
03/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com
sstiles@milesstockbridge.com

Office Action Summary	Application No.	Applicant(s)	
	11/945,745	NISHIZAWA ET AL.	
	Examiner	Art Unit	
	Jared J. Fureman	2876	

-- 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 _____.

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) *20-24* 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) *20-23* is/are rejected.

7)☒ Claim(s) *24* 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 *27 November 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 10/912,289.

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 *11/27/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of the preliminary amendment and IDS filed on 11/27/2008 and the supplemental preliminary amendment filed on 3/11/2008, all of which have been entered in the file. Claims 20-24 are pending.

1. The disclosure is objected to because of the following informalities:

On page 1, the cross-reference to related application (as presented in the preliminary amendment filed on 11/27/2007) should be updated to indicate that the parent application has now issued as U.S. Patent Number 7,308,588.

On page 1, lines 21-22: "US Application 10/476223" should be replaced with -- USP 7,185,145--, since this application has now issued as a U.S. Patent.

Appropriate correction is required.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (US 2001/0006902 A1). Ito teaches:

Re claim 20: A memory card (SD memory card 10, figure 2), comprising:

a controller (MPU 21a, figure 2) serving to provide an interface function between the memory card and outside the memory card;

a nonvolatile memory (flash memory 22, figure 2) coupled to the controller;

a microcomputer (link controller 21c, figure 2) being capable of operating by a non- contact interface signal;

a clock terminal (the signal pin labeled CLK in figure 2) which inputs an external clock signal to be transferred to the controller;

a supply voltage terminal (the signal pin labeled VDD in figure 2) which supplies a supply voltage to the microcomputer, and being spaced from the clock terminal by a first distance (see the spacing of the signal pins in figure 2);

a first antenna terminal and a second antenna terminal coupled to the microcomputer (while the details of the antenna connector are not shown in figure 2, first and second antenna terminals are necessarily present in order to provide electrical connections between the antenna module 12 (containing antenna 26) and the RF circuit 20), and each being spaced from the supply voltage terminal by a distance greater than the first distance (the antenna connector is located on a side of the memory card that is opposite the signal pins, see figure 2); and

a wiring board (not labeled, the substrate on which the components shown in figure 2 are mounted) on which the controller, the nonvolatile memory, the microcomputer, the clock terminal, the supply voltage terminal, and the first and second antenna terminals are mounted (see figures 1A-2 and paragraphs 32-42).

Re claim 21: A memory card according to claim 20, wherein the supply voltage terminal supplies a power supply voltage to the microcomputer (the VDD signal pin supplies an external power supply voltage to the link controller 21c, see figure 2).

Re claim 22: A memory card according to claim 20, wherein the microcomputer is coupled to the controller (the link controller 21c is coupled to the MPU 21a since they are both within controller LSI 21, see figure 2).

Re claim 23: A memory card according to claim 20, further comprising:

a data terminal (the signal pins labeled DAT0 and DAT1 in figure 2) for inputting and outputting data, and coupled to the controller,

wherein the data terminal and the clock terminal are arranged in a first line on the wiring board (the data and clock signal pins are arranged in a first line as shown in figure 2); and

wherein the first and second antenna terminals are arranged in a second line which is different from the first line (the antenna terminals are arranged in a second line as shown in figure 2).

Allowable Subject Matter

5. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken alone or in combination, fails to teach or fairly suggest a memory card wherein the supply voltage terminal is disposed between the first antenna terminal and the second antenna terminal.

While the prior art of record teaches various terminal configurations, without the benefit of Applicant's teachings, there is no motivation for one of ordinary skill in the art at the time of the invention to rearrange the terminals to dispose the supply voltage terminal between the first and second antenna terminals.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fruhauf (US 7,237,719 B2), Ookawa et al (US 6,585,166 B1), Arisawa (US 6,560,082 B1), Reiner (US 6,474,558 B1), Berger et al (US 6,168,083), Bashan et al (US 6,045,043), Nishikawa (US 2005/0212690 A1), Kashima (US 2002/0170974 A1), Harada et al (JP 2000-322544 A), Senba (EP 1 083 517 A2) and Ookawa et al (WO 01/01340 A1) all teach integrated circuit card having contact and contactless interfaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 8:00 am - 5:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. 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.

/Jared J. Fureman/
Primary Examiner, Art Unit 2876

March 14, 2008

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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MCLEAN VA 22102-3833

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of :
Nishizawa, et al. :
Application No. 11/945,745 : DECISION
Filed/Deposited: 27 November, 2007 :
Attorney Docket No. XA-10138A :

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.

NOTE: *Petitioner refers to a telephone conversation with Office personnel.*

Petitioner, as one registered to practice before the Office, is well aware that such a reference is improper.

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 or in-person discussion may be controlling or considered authority for Petitioner's action(s).

A call was placed to Petitioner by the Office on 23 September, 2009, however, as of this writing Petitioner has not returned that call.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

[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.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." **No further extension of time is available. No further reconsideration will be had thereafter.**

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

This is the fourth time that Petitioner has sought unsuccessfully to advance his argument as to withdrawal of the holding of abandonment. As evidenced by the Email Notification to Petition on 28 March, 2008, there was new correspondence available for Petitioner to review—which correspondence included a non-final Office action of 24 March, 2008, and a Notice of Publication of 27 March, 2008—both of which were uploaded into "the electronic application file[ ]"on 27 March, 2008. For reasons known only to Petitioner, those items of correspondence were insufficiently considered by Petitioner and/or his staff such that he failed to reply timely to the 24 March, 2008, non-final Office action.

Petitioner is cautioned that his continued failure to file timely a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay may be viewed as indicia of delay that is not unintentional.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (copy again enclosed) completed for mailing on 24 March, 2008 (and Email notification on 28 March, 2008), with reply due absent extension of time on or before 24 June, 2008.

On 27 March, 2008, the Office mailed a Notice of Publication. (It appears from Office records that both the 24 March, 2008, non-final Office action and the 27 March, 2008, Notice of

Publication were uploaded into the Image File Wrapper (IFW) on 27 March, 2008, with Email notification occurring the next day.)

The application went abandoned by operation of law after midnight 24 June, 2008.

The Office mailed the Notice of Abandonment on 3 October, 2008.

On 2 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, a statement of participation in electronic notification, a statement of search of the file and non-discovery, a copy of the docket sheet (or file jacket cover) for the instant application, and what appears to be (but is not described as) a copy of the firm due-date docket/calendar; but, *inter alia*, no description of the docketing system, no discussion of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and the petition was dismissed on 23 December, 2008.

On 23 February, 2009, Petitioner readvanced the petition pursuant to 37 C.F.R. §1.181, but acknowledged at page 5 of the petition that his office received a Notice on March 28, 2008, but his office staff apparently did not look to see the 24 March, 2008, Office action. Thus, it was not that Petitioner's office did not receive Notice, it was that Petitioner's office failed to look at the 24 March, 2008, Office action. The petition was dismissed on 27 March, 2009.

On 27 May, 2009, Petitioner again re-advanced his petition, with no greater showings than before, rather arguing only that later Office refinements in Email notification that included an itemization of Office actions on the Email notice evidenced a defect in the system. Petitioner's contentions, though considered, are not persuasive. System improvements to the electronic notification system—such as the itemization of Office actions—are not an *indicia* or acknowledgment of defects, but refinements for the benefit of users.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]
>
> ***

Review of the matter by Office Electronic Business Center personnel reflected that notification indeed was provided to Petitioner on 28 March, 2008, of two Office transactions (the non-final Office action and publication). However, it appears that Petitioner's staff looked no farther than in the record than the publication Notice—and, thus, ignored the non-final Office action. The fact that Petitioner's staff ignored the 24 March, 2008, Office action visibly present in the system does not constitute Office error. The petition was dismissed for the third time on 23 June, 2009.

On 24 August, 2009, Petitioner sought for the fourth time to advance his argument as to withdrawal of the holding of abandonment:

- It is noted that the record reflects that from the original filing Petitioner has delayed almost exactly two (2) months on <u>every occasion</u> before seeking relief or renewing the request for relief under the rule. While Petitioner certainly may use such periods of delay as are provided under the Rules of Practice, those delay choices are those of Petitioner and not imposed by the Office. (Notably, on each occasion the Office has replied within five (5) weeks or less.)

- Petitioner's contention is that the Email Notice sent to him was intended only to address the Notice of 27 March, 2008, and not to include the non-final Office action of 24 March, 2008, however, the Office response has been and continues to be that there were two elements of correspondence, to wit: the 24 March, 2008, non-final Office action and the 27 March, 2008, Notice of Publication—both of which were uploaded into the system on 27 March, 2008—and Petitioner and/or his staff appear to have ignored the former.

- Petitioner further contends that the Consolidated OG Notice (30 December, 2008) mandates that electronic notifications are limited to Office actions mailed in the prior 24-hour period—however, the Petitioner's reliance on this interpretation is misplaced in that the Notice provides that the electronic notifications are linked to outgoing correspondence *** prepared for the corresponding electronic application files within the preceding 24

[2] *See*: MPEP §711.03(c) (I)(A).

hours" and the 24 March, 2008, non-final Office action was not prepared and uploaded into "the corresponding electronic application file[ ]" until 27 March, 2008.

- Once again it is noted that Office technical staff reviewed the transactions and determined that the 28 March, 2008, electronic notification was prepared and transmitted following the uploading of the 24 March, 2008, non-final Office action and the 27 March, 2008, Notice of Publication on 27 March, 2008.

- Thus, on each of the four (4) occasions of review, the Office has concluded that Petitioner's showing does not satisfy the requirements of relief pursuant to 37 C.F.R. §1.181 consistent with the guidance in the Commentary at MPEP §711.03(c)(I).

- Moreover, as noted above Petitioner chose to refer to a telephone conversation with Office personnel. Petitioner, as one registered to practice before the Office, must be aware that such a reference is improper because all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]). The only proper authority for action on any matter before the Office are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone or in-person discussion may be controlling or considered authority for Petitioner's action(s). This is not new information for Petitioner: it not only is a longstanding element of the Rules of Practice, but also it was contained in each of the prior decisions mailed to Petitioner.

Accordingly, Petitioner's now only apparent vehicle for relief appears to be a petition pursuant to 37 C.F.R. §1.137(b)—requiring a petition, fee, reply, statement of unintentional delay and, where appropriate, a terminal disclaimer and fee. A copy of the 24 March, 2008, Office action has again been enclosed for Petitioner's consideration and reply.

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.[4]

---

[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.

[4] 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).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) 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

[5] 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.

To: ipdocketing@milesstockbridge.com,sstiles@milesstockbridge.com,
From: PAIR_eOfficeAction@uspto.gov
Cc: PAIR_eOfficeAction@uspto.gov
Subject: Private PAIR Correspondence Notification for Customer Number 181

Mar 28, 2008 06:06:37 AM

Dear PAIR Customer:

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833
UNITED STATES

The following USPTO patent application(s) associated with your Customer Number, 181 , have new outgoing correspondence. This correspondence is now available for viewing in Private PAIR. The official date of notification of the outgoing correspondence will be indicated on the form PTOL-90 accompanying the correspondence.

Application	Attorney Docket No.
11945745	XA-10138A

To view your correspondence online or update your email addresses, please visit us anytime at https://sportal.uspto.gov/secure/myportal/privatepair. If you have any questions, please email the Electronic Business Center (EBC) at EBC@uspto.gov or call 1-866-217-9197 during the following hours:

Monday - Friday 6:00 a.m. to 12:00 a.m. Eastern Standard Time (EST)

Thank you for prompt attention to this notice,

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PATENT APPLICATION INFORMATION RETRIEVAL SYSTEM

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/945,745	11/27/2007	Hirotaka NISHIZAWA	XA-10138A	7921

181 7590 03/24/2008

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER	
FUREMAN, JARED	
ART UNIT	PAPER NUMBER
2876	

NOTIFICATION DATE	DELIVERY MODE
03/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipdocketing@milesstockbridge.com
sstiles@milesstockbridge.com

Office Action Summary	Application No.	Applicant(s)	
	11/945,745	NISHIZAWA ET AL.	
	Examiner	Art Unit	
	Jared J. Fureman	2876	

– 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 _____.

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) 20-24 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) 20-23 is/are rejected.

7)☒ Claim(s) 24 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 27 November 2007 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 10/912,289.

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 11/27/2007.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of the preliminary amendment and IDS filed on 11/27/2008 and the supplemental preliminary amendment filed on 3/11/2008, all of which have been entered in the file. Claims 20-24 are pending.

1. The disclosure is objected to because of the following informalities:

On page 1, the cross-reference to related application (as presented in the preliminary amendment filed on 11/27/2007) should be updated to indicate that the parent application has now issued as U.S. Patent Number 7,308,588.

On page 1, lines 21-22: "US Application 10/476223" should be replaced with -- USP 7,185,145--, since this application has now issued as a U.S. Patent.

Appropriate correction is required.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (US 2001/0006902 A1). Ito teaches:

Re claim 20: A memory card (SD memory card 10, figure 2), comprising:

a controller (MPU 21a, figure 2) serving to provide an interface function between the memory card and outside the memory card;

a nonvolatile memory (flash memory 22, figure 2) coupled to the controller;

a microcomputer (link controller 21c, figure 2) being capable of operating by a non- contact interface signal;

a clock terminal (the signal pin labeled CLK in figure 2) which inputs an external clock signal to be transferred to the controller;

a supply voltage terminal (the signal pin labeled VDD in figure 2) which supplies a supply voltage to the microcomputer, and being spaced from the clock terminal by a first distance (see the spacing of the signal pins in figure 2);

a first antenna terminal and a second antenna terminal coupled to the microcomputer (while the details of the antenna connector are not shown in figure 2, first and second antenna terminals are necessarily present in order to provide electrical connections between the antenna module 12 (containing antenna 26) and the RF circuit 20), and each being spaced from the supply voltage terminal by a distance greater than the first distance (the antenna connector is located on a side of the memory card that is opposite the signal pins, see figure 2); and

a wiring board (not labeled, the substrate on which the components shown in figure 2 are mounted) on which the controller, the nonvolatile memory, the microcomputer, the clock terminal, the supply voltage terminal, and the first and second antenna terminals are mounted (see figures 1A-2 and paragraphs 32-42).

Re claim 21: A memory card according to claim 20, wherein the supply voltage terminal supplies a power supply voltage to the microcomputer (the VDD signal pin supplies an external power supply voltage to the link controller 21c, see figure 2).

Re claim 22: A memory card according to claim 20, wherein the microcomputer is coupled to the controller (the link controller 21c is coupled to the MPU 21a since they are both within controller LSI 21, see figure 2).

Re claim 23: A memory card according to claim 20, further comprising:

a data terminal (the signal pins labeled DAT0 and DAT1 in figure 2) for inputting and outputting data, and coupled to the controller,

wherein the data terminal and the clock terminal are arranged in a first line on the wiring board (the data and clock signal pins are arranged in a first line as shown in figure 2); and

wherein the first and second antenna terminals are arranged in a second line which is different from the first line (the antenna terminals are arranged in a second line as shown in figure 2).

Allowable Subject Matter

5. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken alone or in combination, fails to teach or fairly suggest a memory card wherein the supply voltage terminal is disposed between the first antenna terminal and the second antenna terminal.

While the prior art of record teaches various terminal configurations, without the benefit of Applicant's teachings, there is no motivation for one of ordinary skill in the art at the time of the invention to rearrange the terminals to dispose the supply voltage terminal between the first and second antenna terminals.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fruhauf (US 7,237,719 B2), Ookawa et al (US 6,585,166 B1), Arisawa (US 6,560,082 B1), Reiner (US 6,474,558 B1), Berger et al (US 6,168,083), Bashan et al (US 6,045,043), Nishikawa (US 2005/0212690 A1), Kashima (US 2002/0170974 A1), Harada et al (JP 2000-322544 A), Senba (EP 1 083 517 A2) and Ookawa et al (WO 01/01340 A1) all teach integrated circuit card having contact and contactless interfaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 8:00 am - 5:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. 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.

/Jared J. Fureman/
Primary Examiner, Art Unit 2876

March 14, 2008

Notice of References Cited	Application/Control No. 11/945,745	Applicant(s)/Patent Under Reexamination NISHIZAWA ET AL.	
	Examiner Jared J. Fureman	Art Unit 2876	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2001/0006902	07-2001	Ito, Takafumi	455/558
*	B	US-7,237,719	07-2007	Fruhauf, Serge F.	235/492
*	C	US-6,585,166	07-2003	Ookawa et al.	235/492
*	D	US-6,560,082	05-2003	Arisawa, Shigeru	361/84
*	E	US-6,474,558	11-2002	Reiner, Robert	235/492
*	F	US-6,168,083	01-2001	Berger et al.	235/492
*	G	US-6,045,043	04-2000	Bashan et al.	235/492
*	H	US-2005/0212690	09-2005	Nishikawa, Seiichi	340/932.2
*	I	US-2002/0170974	11-2002	Kashima, Masanori	235/492
	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 2000-322544 A	11-2000	Japan	Harada et al	----------
	O	EP 1 083 517 A2	03-2001	Europe	Senba	----------
	P	WO 01/01340 A1	01-2001	WO	Ookawa et al	----------
	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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1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED
JAN 20 2010

In re Application of	:	
Hirotaka NISHIZAWA et al.	:	
Application No. 11/945,745	:	DECISION ON PETITION
Filed: November 27, 2007	:	
Attorney Docket No. **XA-10138A**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 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, March 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 25, 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 $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 24, 2008 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2876 for appropriate action on the concurrently filed amendment.

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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

COPY MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Kwen-Jen Chang et al. :
Application No. 11/945,815 : DECISION ON PETITION
Filed: November 27, 2007 : TO WITHDRAW
Attorney Docket No. 021353-177.130 DIV : 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 **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the attorney cannot withdraw using the Customer Number when the power of attorney was not originally granted by Customer Number in the Declaration and Power of Attorney filed November 27, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Kwen-Jen Chang et al. :
Application No. 11/945,815 : DECISION ON PETITION
Filed: November 27, 2007 : TO WITHDRAW
Attorney Docket No. 021353-177.130 DIV : 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 9, 2010.

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/
JoAnne Burke
Petitions Examiner
Office of Petitions

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OMRI M. BEHR
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EDISON NJ 08837-3123

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of :
Harry A. Dugger :
Application No. 11/945,842 : DECISION ON PETITION
Filed: November 27, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. DUGG3.0-001 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 27, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the applicant's passport proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1617 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 05/05/2010

Applicant	: Sun-Chung Chou	: DECISION ON REQUEST FOR
Patent Number	: 7632139	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/945,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Daniel PUSIOL et al. :
Application No. 11/945,880 : DECISION ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. GBR-PT013.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 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 July 08, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 09, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 08, 2009, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. 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 the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2831 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MARCELLA D. WATKINS**
P.O. BOX 2463
HOUSTON, TEXAS 77252-2463

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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DEC 23 2009
OFFICE OF PETITIONS

COPY MAILED
DEC 23 2009
OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Allen Nan He :
Application No. 11/945,892 : ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. 071662 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 Restriction Requirement mailed March 24, 2009 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 25, 2009. A Notice of Abandonment was mailed on October 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the election is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350 extension of time fee submitted with the petition on October 20, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2817 for appropriate action by the Examiner in the normal course of business on the reply received October 20, 2009.

Carl Friedman
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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Ice Miller, LLP
One American Square, Suite 3100
Indianapolis, IN 46282-0200

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DEC 0 8 2008

In re Application of :
David A. Clidence et al. :
Application No. 11/945,943 : DECISION ON PETITION
Filed: November 27, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. P00891-US-03 (17884.0002) : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 7, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a photocopy of applicant's birth certificate and an affidavit. 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 at 571-272-1146.

The application is being forwarded to the Technology Center Art Unit 1797 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Yoshitomi Nakagawa	: DECISION ON REQUEST FOR
Patent Number	: 7637235	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/945,953	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **171** 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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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON, TX 77002

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Patrick Finlay, et. al. :
Application No. 11/945,974 : DECISION ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. 1111-50 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 9, 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 December 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed Declaration, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of John S. Egbert appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Brian Brown
Petitions Examiner
Office of Petitions

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LEMAIRE PATENT LAW FIRM PLLC
PO BOX 1818
BURNSVILLE MN 55337

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Sun, et al. :
Application No. 11/946,009 : ON PETITION
Filed: November 27, 2007 :
Attorney Docket No. 419.007US2 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed March 19, 2009.

The petition is **DISMISSED AS INAPPROPRIATE.**

The record discloses that on November 27, 2007, the date of filing of the instant application, a Request and Certification under 35 USC 122(b)(2)(B)(i) was filed, certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 USC 122(b)(2)(B)(ii) that the Request and Certification under 35 USC 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on April 22, 2005, which date is prior to the date of filing the instant application.

The instant nonprovisional application did not become abandoned as a result of the published international application filed on the same date as the present application. In this regard, 35 USC 122(b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the subject application was filed on November 27, 2007, and the corresponding application was filed on April 22, 2005. The statute does not provide for the situation where a certification under 35 USC 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed or filed on the same day in another country or under a multilateral agreement. The statute at 35 USC 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 USC 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above, and since this application did not become abandoned pursuant to the provisions of 35 USC 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f)is inappropriate and must be dismissed.

As requested, the Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application is being forwarded to Group Art Unit 2862 for docketing and examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GANZ LAW, P.C.
PO BOX 2200
HILLSBORO, OR 97123

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Tracey Barnes PRIESTLEY	:	
Application No. 11/946,031	:	DECISION ON PETITION
Filed: November 27, 2007	:	TO WITHDRAW
Attorney Docket No. TBP-2.001.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 24, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bradley M. Ganz does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TRACEY BARNES PRIESTLEY
665 F STREET
ARCATA, CA 95521

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :

SALHOVE, Moshe et al. :
Application No. 11/946,062 : DECISION ON PETITION
Filed: November 28, 2007 : TO WITHDRAW
Attorney Docket No. **GoDetector** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Richard Kim on behalf of all attorneys of record who are associated with customer No. 25225. All attorneys/agents associated with the Customer Number 25225 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 Moshe Salhov at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MOSHE SALHOV**
37/5 AAGANA STREET
HERZELIA IL 46325

cc: **RICHARD C. KIM**
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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Bib Data Sheet

CONFIRMATION NO. 8525

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
11/946,062	11/28/2007 RULE	375	2611	

APPLICANTS

Moshe Salhov, Herzelia, ISRAEL;
Aviv Salamon, Ra'anana, ISRAEL;

**** CONTINUING DATA ****************************

**** FOREIGN APPLICATIONS *********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 12/13/2007

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no 35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance Verified and Acknowledged _____ Examiner's Signature Initials	ISRAEL	9	22	5

ADDRESS

AIR MAIL

MOSHE SALHOV
37/5 AAGANA STREET
HERZELIA, 46325
ISRAEL

TITLE

DYNAMIC THRESHOLD DETECTOR

FILING FEE RECEIVED		
1550	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,083	11/28/2007	Naoki Yoshiume	2018-1860	8572

7590 08/05/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
ESHETE, ZELALEM	
ART UNIT	PAPER NUMBER
3748	
MAIL DATE	DELIVERY MODE
08/05/2009	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.

Patent Publication Branch
Office of Data Management

Refund Ref:
08/07/2009 0030073083

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX2021

Adjustment date: 08/07/2009 NFARMER
11/28/2007 INTEFSW 00005581 11946083
02 FC:1111 -510.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,112	11/28/2007	John M. Lance	CAM920070183US1	8628

63606 7590 03/10/2008

CANTOR COLBURN LLP - IBM BOCA RATON
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
03/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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CANTOR COLBURN LLP - IBM BOCA RATON
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
John M. Lance et al.
Serial No.: 11/946,112
Filed: November 28, 2007
Docket: CAM920070183US1
Title: METHOD OF FLEXIBLY BLOCKING OUT BUSY-TIME IN CALENDARS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 28, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention;
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it is a utility application filed under 37 CFR 1.111(a) and was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of the

Notice to File Corrected Application Papers on December 7, 2007 is evidence that the application was not complete and in condition for examination at the time of filing.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan., Quality Assurance Specialist can be reached at (571)272-4210.

Kakali Chaki, Quality Assurance Specialist

Technology Center 2100

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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.
11/946,117	11/28/2007	Hye-Sung KIM	PNK-0467	8635

7590 05/14/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
05/14/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 05/13/2009 NFARMER
11/28/2007 INTEFSW 00006112 061130 11946117
02 FC:1111 510.00 CR

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,149	11/28/2007	Gerd Bartoszyk	MERCK-2323-D02	8696

23599 7590 08/18/2009

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER	
KIM, JENNIFER M	

ART UNIT	PAPER NUMBER
1617	

NOTIFICATION DATE	DELIVERY MODE
08/18/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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AUG 1 8 2009

Brion P. Heaney
MILLEN, WHITE, ZELANO & BRANIGAN P.C.
Arlington Courthouse Plaza I, Suite 1400
2200 Clarendon Boulevard
Arlington VA 22201

In re Application of	:
Bartoszyk	:
Serial No.: 11/946,149	:Decision on Petition
Filed: 27 November 2008	:
Attorney Docket No.: MERCK-2323-DO2	:

This letter is in response to the Petition filed under 37 C.F.R. 1.181 filed on 21 April 2009 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On 22 August 2008, the examiner mailed a restriction requirement in which the original claims 5-22 were divided into 5 groups, methods of treating dementia, substance-related disorders, sexual dysfunction, eating disorder (anorexia or obesity) or fibromyalgia by administering 1-[4-(5-cyanoindol-3-yl)butyl]-4-(2-carbamoyl-benzofuran-5-yl)-piperazine.

The examiner reasoned that the methods were unrelated.

On 29 August 2008, Applicants elected Group I, the method of treating dementia. Claims 5, 10 and 15-24 read upon the elected invention.

On 2 October 2008, the examiner considered the traversal. The examiner withdrew claims 6-9 and 11-14 as being directed to non-elected inventions. Claims 5, 10, 15-24 were "examined to the extent that they read upon dementia" and rejected under 35 USC 103(a)

as being unpatentable over Bottcher or Bathe in view of Hamon et al and

as being unpatentable over Sankyo in view of Bartoszyl.

On 2 February 2009, applicants filed a response to the Office action.

On 15 April 2009, the examiner mailed an Ex Parte Quayle action in which Claim 5 (in part), Claim 10 (in part) and claims 15-26 were allowed. Claim 5 (in part), and claims 6-9 and 11-14 were withdrawn from consideration. The examiner required applicant to cancel the non-elected subject matter from claims.

On 21 April 2009, applicants filed this petition to request that the Office withdraw the restriction requirement.

On 29 May 2009, Applicants filed a request for continued examination.

DISCUSSION

The petition and file history have been carefully considered.

Claim 5 as it is currently pending is set forth below:

> 5. (Previously Presented): A method for treating dementia in a patient, for treating substance-related disorders in a patient, for treating a sexual dysfunction in a patient, treating an eating disorder, anorexia or obesity in a patient, or for treating fibromyalgia in a patient, said method comprising:
>
> administering to said patient an effective amount of 1-[4-(5-cyanoindol-3-yl)butyl]-4-(2-carbamoyl-benzofuran-5-yl)-piperazine or a physiologically acceptable salt thereof.

MPEP 803 states:

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> > (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> >
> > (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Here, the examiner reasoned that Groups I-VI were unrelated because each of the medical disorders have unrelated treatment and different etiologies. This is not persuasive. All the methods involve administration of the same specifically claims compound to selectively inhibit re-uptake of serotonin. Moreover, the prior art of record (Harmon and Sankyo) both teach the

common underlying mechanism of central neurotransmitter serotonin (5-UT) involvement in several brain functions that underlie the diseases. For these reasons, Groups I-VI are not considered to be independent or distinct inventions.

Next, the examiner argued that it would be a burden to examine the inventions together. All the inventions are classed in the same class (514) and subclass (254.09). Moreover, a search for on invention would likely identify prior art relevant on other inventions- see teachings within Harmon and Sankyo which have bearing upon the non-elected inventions. Harmon et al (of record, and applied under 35 USC 103 to elected invention) provides the following teachings which may be relevant for Group I (elected invention; method of treating dementia), sexual behavior (Group III, method of treating sexual dysfunction) and food consumption (Group IV, method of treating an eating disorders).

> The central neurotransmitter serotonin (5-hydroxytryptamine, 5-HT) is involved in the control of several brain functions (sleeping/waking cycles, thermoregulation, food consumption, sexual behaviour, nociception, etc.), and alterations in the activity of serotonin-containing neurones have been associated with several neuropsychiatric disorders such as depression, anxiety and dementia.

Sankyo (of record and applied under 35 USC 103 to elected invention) provides the following teachings which may be relative for both Group I (dementia) and Group III (sexual dysfunction)

> **Summary**
>
> Hexahydropyrazinoquinoline derivatives are claimed, along with procedures for their preparation, compositions of 5-HT_{1A} receptor agonists containing the compounds and methods for treating CNS disorders using them. The compounds are stated to have affinity for 5-HT_{1A} receptors and are claimed to be useful for the prevention and treatment of:
>
> - anxiety disorders;
> - depression;
> - symptoms associated with senile dementia;
> - hypertension;
> - schizophrenia;
> - sleep disorder;
> - migraine;
> - sexual dysfunction;
> - kinesia; and
> - dizziness.

For these reasons, it would not impose a serious burden on the examiner to examine the inventions together.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The restriction requirement amongst Groups I-VI is withdraw.

The indication that claims would only be examined to the extent that they read upon the elected invention and elected species has been withdrawn.

The application will be forwarded to the examiner for consideration of the papers filed 29 May 2008 and for preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CST

December 8, 2009

In re application of	:	DECISION ON REQUEST TO
Kazuyuki Kiuchi et al	:	PARTICIPATE IN PATENT
Serial No. 11/946,154	:	PROSECUTION HIGHWAY
Filed: November 28, 2007	:	PROGRAM AND
For: METHOD FOR ATTACHING AND PEELING PRESSURE-SENSITIVE ADHESIVE SHEET	:	PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed October 5, 2009.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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DRW Nov-08

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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NOV 10 2008

In re Application of :
Masaaki Toguchi :
Application Number: 11/946180 : ON PETITION
Filing Date: 11/28/2007 :
Attorney Docket Number: P/1689-159 V5971 :

This is a decision on the "PETITION UNDER 37 C.F.R. 1.181(a) and MPEP 711.03(c)(I)(A) TO WITHDRAW HOLDING OF ABANODNMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION," filed on October 14, 2008.

This application was held abandoned for failure to timely submit a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125 as required by the Notice to File Corrected Application Papers mailed on December 28, 2007, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on September 11, 2008.

Petitioner asserts that the Notice to File Corrected Application Papers mailed on December 28, 2007 was never received. In support of that allegation, petitioner has submitted a copy of a docket record and provided a statement by registered patent practitioner James A. Finder, stating, in pertinent part, that "based on a search of our file jacket and our docketing records, the undersigned states that the Notice was not received." A copy of the docket record for the firm covering the period during which the Notice would have been docketed for reply has been enclosed. The practitioner's statement references the docket record.

A review of the record indicates no irregularity in the mailing of the Notice to File Corrected Application Papers mailed on December 28, 2007, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice to File Corrected Application Papers mailed on December 28, 2007 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to File Corrected Application Papers mailed on December 28, 2007 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail

> date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> (emphasis added)

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

No petition fee is due and none has been paid.

The petition is **GRANTED.**

Receipt of the substitute specification filed with the subject petition in response to the Notice to File Corrected Application Papers is acknowledged. As a reply to the Notice to File Corrected Application Papers has been filed, it is unnecessary to remail the aforementioned Notice.

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

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.
11/946,189	11/28/2007	Jason A. Swaim	10070623-1	8762

7590 12/11/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
DUNWOODY, AARON M	

ART UNIT	PAPER NUMBER
3679	

NOTIFICATION DATE	DELIVERY MODE
12/11/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 NFARNER
11/28/2007 INTEFSU 00000650 501076 11946189
02 FC:1111 510.00 CR

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WOODARD, EMHARDT, MORIARTY,
MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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JUL 01 2010

OFFICE OF PETITIONS

In re Application of
David Sirbasku
Application No.: 11/946,190
Filed: November 28, 2007
Attorney Docket No.: 057041-000028

ON PETITION

This is a decision on the petition, filed June 1, 2010, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional applications.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) and (iii) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present petition does not comply with item (1) because petitioner failed to submit a proper Application Data Sheet (ADS) or an amendment to the first sentence of the specification following the title to include a proper reference under 37 CFR 1.78(a)(2)(i).

The supplemental ADS filed June 1, 2010 is not acceptable since it is not executed in accordance with 37 CFR 1.33 and 10.18. See also 37 CFR 1.4(d) for the form of the signature. The statement contained in the petition is unacceptable as an "amendment." In this regard, the amendment is physically apart of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, an ADS or amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6), must be submitted.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petition Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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JUL 29 2010

OFFICE OF PETITIONS

WOODARD, EMHARDT, MORIARTY,
MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

In re Application of :
David A. Sirbasku :
Application No. 11/946,190 : DECISION ON PETITION
Filed: November 28, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: 057041-000028 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 9, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to the prior-filed provisional applications set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the 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 non-provisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional 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(s) 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(s). 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(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1643 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.

Sherry D. Brinkley
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
11/946,190	11/28/2007	1643	1415	057041-000028	32	7

CONFIRMATION NO. 8766

CORRECTED FILING RECEIPT

30565
Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

OC00000004272406

Date Mailed: 07/26/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Sirbasku, Irving, TX;

Assignment For Published Patent Application

Signe Biopharma Inc., Irving, TX

Power of Attorney: The patent practitioners associated with Customer Number 30565

Domestic Priority data as claimed by applicant

This application is a CON of 10/293,019 11/13/2002 ABN
which claims benefit of 60/338,037 11/13/2001
and is a CIP of 09/852,958 05/10/2001
which claims benefit of 60/231,273 09/08/2000
and claims benefit of 60/229,071 08/30/2000
and said 10/293,019 11/13/2002
is a CIP of 09/852,547 05/10/2001
which claims benefit of 60/203,314 05/10/2000
and claims benefit of 60/208,348 05/31/2000
and claims benefit of 60/208,111 05/31/2000
and claims benefit of 60/229,071 08/30/2000
and claims benefit of 60/231,273 09/08/2000
and said 09/852,958 05/10/2001
claims benefit of 60/203,314 05/10/2000
and claims benefit of 60/208,348 05/31/2000
and claims benefit of 60/208,111 05/31/2000

Foreign Applications

If Required, Foreign Filing License Granted: 07/23/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/946,190**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

BREAST CANCER ERADICATION PROGRAM

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ECKERT SEAMANS
CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH PA 15219

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of
Bradea
Application No. 11/946,242
Filed: 28 November, 2007
Attorney Docket No. 291010-00620

DECISION ON PETITION

This is a decision in response to the petition filed on 21 July, 2008, under 37 C.F.R. §1.47.

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 28 November, 2007, without, *inter alia*, a fully executed oath/declaration.

On 19 December, 2007, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required\.

On 21 July, 2008, Petitioner Brij K. Agarwal (reg. No. 43,507) filed, *inter alia*, a request and fee for extension of time, a petition and fee, an employment agreement, an averment (though the record is silent as to a contemporaneous transmittal document in support of the statement) by Thanh V. Vuong (Patent Engineer with Assignee) of transmission/delivery by hand of the entire application (description, claims, abstract and drawings) to the non-signing inventor Marcel

Bradea (Mr. Bradea) and express refusal at a time thereafter by Mr. Bradea to execute, and averment of proprietary interest/irreparable damage, and an oath/declaration (one page) filed with the petition and executed by Petitioner with a statement of authorization for him to do so.

Petitioners' attentions always are 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) and (g).

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(b) is **granted**.

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) for further processing in due course.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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MARCEL BRADEA
573 EPHRAIM STREET
KITCHENER, ONTARIO
CANADA
N2B 2C7

COPY MAILED

DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of
Bradea
Application No. 11/946,242
Filed: 28 November, 2007
Attorney Docket No. 291010-00620

COMMUNICATION

Dear Marcel Bradea:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

While telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s). Moreover, the Office cannot neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
ECKERT SEAMANS
CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH PA 15219

[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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Justice	:	DECISION ON PETITION
Application No. 11/946,248	:	TO WITHDRAW
Filed: November 28, 2007	:	FROM RECORD
Attorney Docket No. 70465.00042	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on November 5, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted herein cannot be approved at this time since the Office no longer accepts address changes to a new practitioner or law firm filed with requests under 37 C.F.R. § 1.36(b).

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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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Heller Ehrman, LLP
4350 La Jolla Village Drive #700
7th Floor
San Diego, CA 92122

COPY MAILED
NOV 25 2008

In re Application of :
Yu Brian Zheng :
Application No. 11/946,363 : DECISION ON PETITION
Filed: November 28, 2007 : TO WITHDRAW
Attorney Docket No. 44435-0009 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Steven A. Moore on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor, since no assignee has properly intervened. A courtesy copy of this decision will be mailed to the address noted on the request. If this person desires to receive future correspondence regarding this application, the proper power of attorney documents and/or a proper statement under 37 CFR 3.73(b) must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Yu "Brian" Zheng
19901 Tennessee Trail
Walnut, CA 91789

cc: Patent Category Corporation
Attn: Thomas Dover
368 S. Cheryl Lane
City of Industry, CA 91789

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/946,363	11/28/2007	Yu Brian Zheng	44435-0009

CONFIRMATION NO. 9070

POWER OF ATTORNEY NOTICE

33123
HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

OC000000033296890

Date Mailed: 11/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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.
11/946,426	11/28/2007	Toru TAKEGUCHI	318963US2	9164

7590 10/13/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
DUONG, TAI V	

ART UNIT	PAPER NUMBER
2871	

NOTIFICATION DATE	DELIVERY MODE
10/13/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
10/13/2009 0038075451

Credit Card Refund Total: $930.00

Acct Exp..: XXXXXXXXXXXX2004

Adjustment date: 10/13/2009 NFARMER
11/29/2007 INTEFSW 00001013 11946426
02 FC:1111 -510.00 DP
04 FC:1201 -420.00 DP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,450	11/28/2007	Deok-Kee Kim	FIS920070398US1 (21704)	9203

45600 7590 01/10/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
Suite 300
GARDEN CITY, NY 11530

EXAMINER	
ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JAN 10 2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

In re Application of:
KIM *et al.*
Serial No.: 11/946,450
Filed: November 28, 2007
Title: **ELECTROMIGRATION-PROGRAMMABLE SEMICONDUCTOR DEVICE WITH BIDIRECTIONAL RESISTANCE CHANGE**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 28, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers on December 07, 2007, is evidence that the application was not complete and in condition for examination at the time of filing.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, TQAS, at (571) 272-1594.

Clayton E. LaBalle, TQAS
Technology Center 2800

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

SENDAK & STAMPER
209 SOUTH MAIN STREET
CROWN POINT IN 46307

COPY MAILED

MAR 03 2008

In re Application of :
Lendal Larry Hanaway :
Application No. 11/946,523 : DECISION ON PETITION
Filed: November 28, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 5812 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a 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 3724 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 30 2009

OFFICE OF PETITIONS

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

In re Application of :
Sandeep Chowdhury :
Application No. 11/946,532 : ON PETITION
Filed: November 28, 2007 :
Attorney Docket No. IN920060062US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael F. Hoffman 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. However, if Mr. Hoffman desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed December 18, 2007, requiring a claim listing that includes all of the claims commencing on a separate sheet in compliance with 37 CFR 1.75(h) and 1.121.. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 19, 2008. A Notice of Abandonment was mailed September 2, 2008. On October 7, 2008, the present petition was filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement claims; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for further consideration of the response filed October 7, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

/Sherry D. Brinkley/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL F. HOFFMAN
75 STATE ST., 14TH FLOOR
ALBANY, NY 12207

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED

JUN 29 2009

OFFICE OF PETITIONS

Applicant: Harari et al.
Appl. No.: 11/946,558
Filing Date: November 28, 2007
Title: MEMORY CARDS INCLUDING A STANDARD SECURITY FUNCTION
Attorney Docket: SNDK.259US1
Pub. No.: US 2008/0067255 A1
Pub. Date: March 20, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 18, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the publication contains certain errors in inventor name and residences.

37 CFR 1.221 (b) is applicable "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. This period is not extendable." (Emphasis added) A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

In the instant case, the request for corrected publication, received on August 18, 2008, more than two months from the March 20, 2008 publication date, and therefore was not timely filed under 37 CFR 1.221(b). Therefore 37 CFR 1.221 (b) is inapplicable to grant the desired relief.

Furthermore, a misspelling in an inventor name, or the presence of a different residence, such as in the instant case 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

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

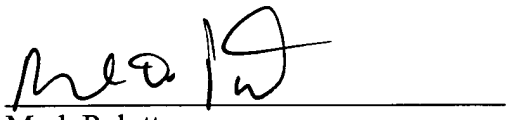
A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

APR 08 2010

OFFICE OF PETITIONS

In re Application of
Kazuyuki Mikubo et al
Application No. 11/946,561
Filed: November 28, 2007
Attorney Docket No. Q104650

: DECISION ON PETITION
: UNDER 37 CFR 1.313(c)(3) AND
: REQUEST FOR REFUND

This is a decision on the petition, filed April 5, 2010, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the request for refund submitted on April 5, 2010.

The petition is **GRANTED**.

The request for refund is **DISMISSED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

The request for refund of the issue fee paid on June 30, 2009, is dismissed in this instance because the issue fee was due upon payment and not paid by mistake. Note MPEP 607.02, 35 U.S.C. 42(d) and 37 C.F.R. 1.26.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

/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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,573	11/28/2007	Koji Aoki	319059US26X	9418

7590 02/27/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
KOONTZ, TAMMY J	

ART UNIT	PAPER NUMBER
3974	

NOTIFICATION DATE	DELIVERY MODE
02/27/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 02/26/2009 BPOWELL
11/29/2007 INTEFSW 00002134 11946573
02 FC:1111 -510.00 OP

Refund Ref:
02/26/2009 0030067099

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1006

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APR 10 2008

OFFICE OF PETITIONS

In re Application of :
Olivier Cazals : DECISION ON PETITION
Application Number: 11/946579 :
Deposited: 11/28/2007 :
Attorney Docket Number: 1075-013119-US (PAR) :

This is a decision on the petition under 37 CFR 1.57(a), filed on March 4, 2008, requesting that the above-identified application be accorded a filing date of November 28, 2007.

The petition is **DISMISSED**.

On November 28, 2007, the instant application was deposited without drawings.

Accordingly, on February 11, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Nonprovisional Application, stating the application had not been accorded a filing date because the application had been deposited without drawings. A two month period for reply was set.

On March 4, 2008, the present petition was filed, along with, *inter alia*, 11 sheets of drawings.

Petitioner admits that the drawing sheets were inadvertently omitted from the application papers filed on November 28, 2007, but states that this application contains, in the Application Data Sheet (ADS) filed with the application papers deposited on November 28, 2007, a claim for foreign priority under 35 U.S.C. § 119(b) and 37 CFR 1.55(a) to prior-filed French application No. 06 55199, filed on November 30, 2006, which contains the omitted drawings.

The petition is accompanied by a copy of the prior-filed foreign application, including 11 sheets of drawings. Relying on §1.57(a), applicants state that the drawings were effectively incorporated by reference.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under 1.55 for priority of a prior-filed foreign application … 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 … shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
>
> (i) Supply a copy of the prior-filed application, except where the prior filed application is an application 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
>
> …
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

The petition lacks item (1). Petitioner has not provided an amendment to include the inadvertently omitted drawings as required by 37 CFR 1.57(a). A renewed petition, accompanied by the required amendment, must be filed.

Additionally, as the prior-filed application is in a language other than English, an English translation of the prior-filed French application to which priority under 35 U.S.C. § 119(b) and 37 CFR 1.55(a) is claimed, must be filed with any renewed petition.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

The petition fee of $400.00 has been received.

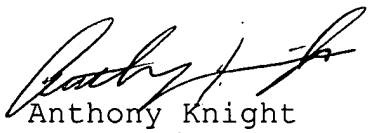
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571.272.3231.



Anthony Knight
Supervisor
Office of Petitions

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JUN 16 2008

In re Application of :
Olivier Cazals : DECISION ON PETITION
Application Number: 11/946579 :
Deposited: 11/28/2007 :
Attorney Docket Number: 1075-013119-US (PAR) :

This is a decision on the renewed petition under 37 CFR 1.57(a), filed on April 29, 2008, requesting that the above-identified application, be accorded a filing date of November 28, 2007.

The petition is **GRANTED**.

On November 28, 2007, the instant application was deposited without drawings.

Accordingly, on February 11, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Nonprovisional Application, stating the application had not been accorded a filing date because the application had been deposited without drawings. A two month period for reply was set.

On March 4, 2008, a petition under 37 CFR 1.57(a) was filed, accompanied by a copy of the prior-filed French application, including the drawings.

On April 10, 2008, the petition was dismissed because an amendment to include the inadvertently omitted drawings had not been filed in compliance with 37 CFR 1.57(a)(1), and an English translation of the prior-filed non-English application, including the drawings, to which priority was claimed under 35 U.S.C. § 119(b) and 37 CFR 1.55(a), was missing.

On April 29, 2008, the present renewed petition was filed, along with, *inter alia*, an amendment to enter of 11 sheets of drawings.

Petitioner again admits that the drawing sheets were inadvertently omitted from the application papers filed on November 28, 2007, but states that this application contains, in the Application Data Sheet (ADS) filed with the application papers deposited on November 28, 2007, a claim for foreign priority under 35 U.S.C. § 119(b) and 37 CFR 1.55(a) to prior-filed French application No. 06 55199, filed on November 30, 2006, which contains the omitted drawings.

The renewed petition is accompanied by a preliminary amendment to add the inadvertently omitted drawings. 11 sheets of drawings were also supplied, along with a copy of the English translation of the prior-filed French application, including the drawings, and a statement that the translation is accurate. Relying on §1.57(a), applicants state that the drawings were effectively incorporated by reference.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under 1.55 for priority of a prior-filed foreign application … 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 … shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
>
> (i) Supply a copy of the prior-filed application, except where the prior filed application is an application 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
>
> ...
>
> (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).

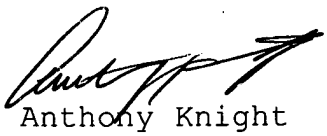
A review of the application as filed reveals that it included an Application Data Sheet (ADS) containing a claim of priority under 35 U.S.C. 119(b) and 35 CFR 155(a) to prior-filed French Application No. 06 55199, filed on November 30, 2006. The petition fee was received on March 4, 2008. Lastly, the present renewed petition includes a preliminary amendment submitting the omitted drawings.

In view thereof, the petition under 37 CFR 1.57(a) is **GRANTED**. The preliminary amendment will be entered in due course.

The application is referred to the Office of Patent Application Processing (OPAP) for according of a filing date of November 28, 2007, using the application papers received in the Office on that date and the drawings submitted with the present renewed petition, and for an indication in the records of the Office that the application as filed contains 11 sheets of drawings.

The application is referred to OPAP for further processing. Applicant will receive appropriate notification regarding the fees owed, if any, and other information in due course from OPAP.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571.272.3231.



Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Wu et al.	:	
Application No.: 11/946584	:	DECISION ON
Filing or 371(c) Date: 11/28/2007	:	PETITION
Attorney Docket Number: OP-096000636	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181," filed February 6, 2009.

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 Omitted Item(s) in a Nonprovisional Application (Notice), mailed December 17, 2007. The Notice set a two (2) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a response on December 19, 2007; however, the reply was incomplete. Applicant was so notified in a Notice of Incomplete Reply (Nonprovisional), mailed January 15, 2008. A Notice of Abandonment was mailed August 28, 2008.

Petition under 37 CFR 1.181

Applicant files the present petition and asserts that the Notice of Incomplete Reply and Notice of Abandonment were not received.

Abandonment of the application

Applicant is advised that the application became abandoned for Applicant's failure to file a complete and proper reply to the Notice of Omitted Item(s), and not because of the failure to receive the Notice of Incomplete Reply or Notice of ABandonment.

The MPEP 711.03(c) states:

> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment.

Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

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.

Id.

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

Upon Applicant's receipt of the Notice of Omitted Item(s), it was Applicant's responsibility to file a complete and proper reply as the condition of the application required.

37 CFR § 1.135, Abandonment for failure to reply within time period, states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Conclusion

The application became abandoned for Applicant's failure to file a complete and proper reply to the Notice of Omitted Item(s), and not because of the failure to receive the Notice of Incomplete Reply or the Notice of Abandonment. As stated above, Evidence of nonreceipt of an Office

communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required
to avoid abandonment would not warrant withdrawal of the holding of abandonment.

Correspondence address

A review of the petition reveals that the correspondence address therein differs from the correspondence address of record. Moreover, a review of Office records reveals that the correspondence address associated with the present Customer Number, designated as the correspondence address in the filing of the executed oath/declaration, filed on December 19, 2007 in response to the Notice of Omitted Item(s), reveals that the correspondence address was changed on September 24, 2008, to P.O. Box 220746, Chantilly, VA 20153-0746. Thus the correspondence address that the Notice of Omitted Item(s), was mailed to, which was the correspondence address of record at the time the Notice of Omitted Item(s) was mailed, differs from the current correspondence address of record, and the correspondence address in the present petition differs from the current correspondence address of record.

The MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The notification should also include his or her telephone number. MPEP 601.03

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.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable[1]." 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

[1] The MPEP states that "a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985)." MPEP 703(c).

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 matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: KAO H. LU
1425 DARBY ROAD
HAVERTOWN, PA 19083

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OFFICE OF PETITIONS

In re Application of :
Wu, et al. :
Application No. 11/946,584 : ON PETITION
Filed: November 28, 2007 :
Attorney Docket No. OP-096000636 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 16, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice of Omitted Items, mailed December 17, 2007. This Notice set an extendable period for reply of two (2) months. No reply having been received, the application became abandoned on February 18, 2008. The Office mailed a Notice of Abandonment on August 28, 2008. Applicants filed a petitio to withdraw the holding of abandonment on February 6, 2009. However, the petition was dismissed in a decision mailed on March 16, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted a reply to the Notice of Omitted Items.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of	:	
Leonard Hacker	:	
Application No. 11/946,616	:	DECISION ON PETITION
Filed: November 28, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2260-008	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 14, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

Mail Date: 04/21/2010

Applicant	: Luther McKinley "Joe" Karnes	: DECISION ON REQUEST FOR
Patent Number	: 7594478	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/946,633	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

DATE 2/8/08

APPLICATION NUMBER 11/946,638

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DOC CODE Pet Dec. OPAP

DOC DATE FEB 13 2008

OFFICE OF PETITIONS

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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

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2777 ALLEN PARKWAY
SUITE 800
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OFFICE OF PETITIONS

In re Application of :
Turick et al. :
Application No. 11/946,638 : ON PETITION
Filed: November 28, 2007 :
Atty. Docket No. 020569-16401 (P806-1535) :

This is in response to the petition under 37 CFR 1.57(a), filed December 20, 2007, requesting that the above-referenced application be accorded a filing date of November 28, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2).[1]

Application papers in the above-identified application were deposited on November 28, 2007. However, on December 19, 2007, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. Additionally, the Notice required applicants to submit an executed oath or declaration and a surcharge for its late filing.

In response, applicants timely filed this petition. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.78.

Applicants' 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:

[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.

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have granted the application a filing date and mailed a Notice of Omitted Items instead of a Notice of Incomplete Nonprovisional Application. As stated in MPEP § 601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicants 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.

The petition is **GRANTED** to the extent the instant application will be accorded a filing date of November 28, 2007, with no drawings as part of the original disclosure.

Given the basis for granting this petition, the petition fee is being refunded to the Deposit Account.

Pursuant to this decision, the application will be referred to Office of Patent Application Processing for:

- **correction of the filing date to November 28, 2007;**
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and;**
- **for issuance of a filing receipt.**

Entry of the amendment filed December 20, 2007, will be determined by the examiner.

Telephone inquiries concerning this matter may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Charles A. Pearson
Director
Office of Petitions

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ROBERT LISTOU
725 3RD ST SW
WASHINGTON, DC 20024

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JUN 09 2008

In re Application of :
LISTOU, Robert E. :
Application No. 11/946,647 : DECISION ON PETITION
Filed: November 28, 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 November 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Robert E. Listou attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2176 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,648	11/28/2007	Takahiro Shii	SIMTEK.7419A	9556

7590 05/01/2009

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
KOONTZ, TAMMY J	

ART UNIT	PAPER NUMBER
3974	

NOTIFICATION DATE	DELIVERY MODE
05/01/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 05/01/2009 BPOWELL
11/29/2007 INTEFSW 00002783 11946648
02 FC:1111 -510.00 OP

Adjustment date: 05/01/2009 BPOWELL
11/29/2007 INTEFSW 00002783 11946648
02 FC:1111 -510.00 OP

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THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Ouellette et al.	:	
Application No. 11/946,663	:	ON PETITION
Filing: November 28, 2007	:	
Attorney Docket No. 52027-72849	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 21, 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 3653 for action on the merits commensurate with this decision.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-28-09

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/946676 Patent No.: 7598028

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

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

1642

SPE **Art Unit**

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Smart & Biggar
1000 De La Gauchetiere Street W.
Suite 3300
Montreal QC H3B 4W5 CA
Canada

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of
Jacques St. Pierre
Application No. 11/946,681
Filed: November 28, 2007
Attorney Docket No. 86415-36

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 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 Marc Gagnon on behalf of attorney/agents associated with customer number 28291. All attorneys/agents associated with customer number 28291 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: Jacques St-Pierre
101, rue des PME
Sherbrooke, Quebec J1C OR2
Canada

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/946,681	11/28/2007	Jacques St-Pierre	86415-36

CONFIRMATION NO. 9617

POWER OF ATTORNEY NOTICE

28291
SMART & BIGGAR
1000 DE LA GAUCHETIERE ST. W.
SUITE 3300
MONTREAL, QC H3B 4W5
CANADA

OC000000036783663

Date Mailed: 07/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DISNEY ENTERPRISES, INC
C/O BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

Mail Date: 04/21/2010

Applicant	: Alfredo Ayala	: DECISION ON REQUEST FOR
Patent Number	: 7652824	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/946,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **5** 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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DISNEY ENTERPRISES, INC
C/O BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

Mail Date: 05/18/2010

Applicant : Alfredo Ayala
Patent Number : 7652824
Issue Date : 01/26/2010
Application No: 11/946,688
Filed : 11/28/2007

: 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 **34** 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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Takuji MURAYAMA	: DECISION ON REQUEST FOR
Patent Number	: 7637828	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/946,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **51** 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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BUSKOP LAW GROUP, P.C.
4511 DACOMA STREET
HOUSTON TX 77092

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OFFICE OF PETITIONS

In re Application of :
THOMAS N. MCKNIGHT et al. :
Application No. 11/946,727 :
Filed: November 28, 2007 :
Attorney Docket No. **1364.018** :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 28, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The evidence submitted with the instant petition is a copy of Jerald Briske's drivers license indicating that she is at least 65 years of age. Accordingly, the above-identified application will be accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done

Monica A. Graves
Petitions Examiner
Office of Petitions

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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APR 16 2010

OFFICE OF PETITIONS

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

In re Application of	:	
Radolav DANKILAK	:	
Application No. 11/946,753	:	DECISION ON PETITION
Filed: November 28, 2007	:	TO WITHDRAW
Attorney Docket No. SAF1P008	:	FROM RECORD
	:	

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 11, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 15, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SANDFORCE, INC.**
ATTENTION: EARL COHEN
12950 SARATOGA AVE
SARATOGA CA 95070-4658

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/946,774	11/28/2007	Jeffrey P. Bezos	AMAZON.75A2DV1	9773

7590 07/11/2008

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER	
RUDY, ANDREW J	

ART UNIT	PAPER NUMBER
3687	

NOTIFICATION DATE	DELIVERY MODE
07/11/2008	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.

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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SEP 25 2008

In re Application of	:	
Weitzner et al.	:	Decision Noting Joinder of Inventor and
Application No. 11/946,812	:	Decision Dismissing Any Request for
Filed: November 28, 2007	:	Status Under 37 CFR 1.47 as Moot
Attorney Docket No. 06530.0386-00000	:	

This decision is in response to the petition filed under 37 CFR 1.47(a) on June 19, 2008, and supplemented on July 16, 2008.

The petition filed June 19, 2008, requested the declaration be accepted without the signature of inventor Brian Tinkham. However, on July 16, 2008, petitioner submitted a declaration signed by inventor Brian Tinkham.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue taking steps 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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/26/2010

Applicant	: Norman A. Faiola	: DECISION ON REQUEST FOR
Patent Number	: 7617553	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/946,915	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
Jekyll Island GA 31527

COPY MAILED
MAR 01 2010

In re Application of :
Robert Garrett :
Application No. 11/947,027 : DECISION ON PETITION
Filed: November 29, 2007 : TO WITHDRAW
Attorney Docket No. **GARR-0009A** : 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 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Robert Platt Bell on behalf of all attorneys of record who are associated with the above-identified application.

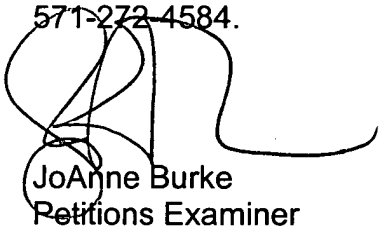
All attorneys/agents associated with the above-identified application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Robert Garrett at the address list listed in the request.

There is an outstanding Office action mailed December 30, 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: Robert Garrett
2470 Wintergreen Way
Gambrills, MD 21054-155

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,058	11/29/2007	Jacques Goldberg	CEL-11-2007	1239

66298 7590 03/17/2008

CELIGHT, INC.
12200 TECH RD.
SILVER SPRING, MD 20904

EXAMINER	
ART UNIT	PAPER NUMBER
2881	

NOTIFICATION DATE	DELIVERY MODE
03/17/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NREINGAND@CELIGHT.COM
reingand@yahoo.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CELIGHT, INC.
12200 Tech Rd.
Silver Spring, MD 20904

MAR 17 2008

In re Application of:
GOLDBERG *et al.*
Serial No.: 11/947,058
Filed: November 29, 2007
Title: **HIGH Z MATERIAL DETECTION SYSTEM AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 29, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1-4; II.1-5.1 and 5.3-6.6, above are considered to have been met. However, the petition fails to comply with conditions II. 5.2 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of II. 5.2, the pre-examination search must be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation, and encompass the disclosed features that may be claimed. The search logic provided does not appear to meet these two requirements. For example, limitations like "a digital signal processing unit", "leaving angle" and "high Z" do not appear in the search logic. For the above reasons, the petition does not meet the requirements of II. 5.2, as set forth above.

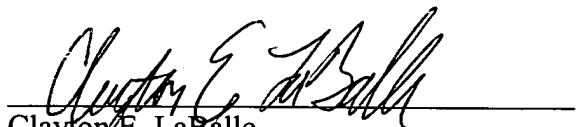
DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.



Clayton E. LaBalle
Special Program Examiner
Technology Center 2800

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.
11/947,058	11/29/2007	Jacques Goldberg	CEL-11-2007	1239

66298 7590 05/22/2008

CELIGHT, INC.
12200 TECH RD.
SILVER SPRING, MD 20904

EXAMINER
KIM, ROBERT H

ART UNIT	PAPER NUMBER
2881	

NOTIFICATION DATE	DELIVERY MODE
05/22/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NREINGAND@CELIGHT.COM
reingand@yahoo.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CELIGHT, INC.
12200 Tech Rd.
Silver Spring, MD 20904

In re Application of:
GOLDBERG *et al.*
Serial No.: 11/947,058
Filed: November 29, 2007
Title: **HIGH Z MATERIAL DETECTION SYSTEM AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This decision is a reply to the communication filed April 03, 2008. The communication is being treated as a petition requesting reconsideration of the previous decision of March 17, 2008, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed November 29, 2007.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.
3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an

interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

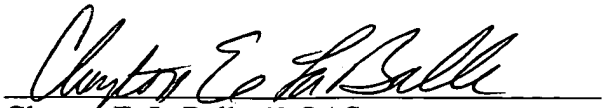
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1594.



Clayton E. LaBalle, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/10/2010

Applicant	: Christian V. SORACE	: DECISION ON REQUEST FOR
Patent Number	: 7633339	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/947,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,113	11/29/2007	Mikio Sasaki	319069US2	1332

7590 04/21/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
VU, KIEU D	

ART UNIT	PAPER NUMBER
2173	

NOTIFICATION DATE	DELIVERY MODE
04/21/2010	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/20/2010 NFARKER
11/29/2007 IKYEH 00000009 11947113
02 FC:1111 -510.00 DP

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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Yoram Cedar	: DECISION ON REQUEST FOR
Patent Number	: 7590782	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/947,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.
11/947,136	11/29/2007	Lavrans Lovlie	302/1/082	1369

7590 01/30/2009

RICHARD M. GOLDBERG
25 EAST SALEM STREET
SUITE 419
HACKENSACK, NJ 07601

EXAMINER	
VINCENT, DAVID ROBERT	

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
01/30/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
02/04/2009 0030066277

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1006

Adjustment date: 02/04/2009 NFARMER
05/22/2008 INTEFSW 00007755 11947136
02 FC:1111 -510.00 OP

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Kevin J. Mack
112 Maple Lane
E. Palo Alto, CA 94303

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of :
Joel Brian Derrico et al. :
Application No. 11/947,193 : DECISION ON PETITION
Filed: November 29, 2007 : TO WITHDRAW
Attorney Docket No. thermo-0002 : 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 December 5, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Kevin J. Mack: (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. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joel Derrico
2123 East Lake Road, NE
Atlanta, GA 30307

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,207	11/29/2007	Pradip Bose	YOR920070292US1 (21234)	1492

48233 7590 01/23/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
01/23/2008	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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

JAN 23 2008

In re Application of: Pradip BOSE et al Serial No.: 11/947,207 Filed: November 29, 2007 Attorney Docket No.: YOR920070292US1(21234)	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

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 the application was not complete under 37 CFR § 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Missing Parts or a Notice to

File Corrected Application Papers is evidence that the application was not complete and in condition for examination at the time of filing. In this case, replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1,121(d) were required in the Notice to File Corrected Application Papers mailed on December 7, 2007.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
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.
11/947,207	11/29/2007	Pradip Bose	YOR920070292US1 (21234)	1492

48233 7590 04/22/2009

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
CHIANG, JACK	

ART UNIT	PAPER NUMBER
2825	

MAIL DATE	DELIVERY MODE
04/22/2009	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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
Pradip BOSE et al.
Serial No.: 11/947,207
Filed: November 29, 2007
Title: METHOD AND ARRANGEMENT FOR ENHANCING PROCESS VARIABILITY AND LIFETIME RELIABILITY THROUGH 3D INTEGRATION

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the request for reconsideration of the petition to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d) filed February 25, 2008. The petition to make special under 37 C.F.R. § 1.102(d) was denied on January 23, 2008.

The petition was denied because the application was not complete under 37 C.F.R. § 1.51 and in condition for examination at the time of filing. A Notice to File Corrected Application Papers was mailed on December 7, 2007 indicating that replacement drawings in compliance with 37 C.F.R. § 1.84 and 37 C.F.R. § 1.121(d) were required.

The petition to make the application special is DENIED.

Petitioner asserts that the application was in complete order to meet the requirements of the accelerated examination procedure and the Notice to File Corrected Application Papers dated December 7, 2007 requiring submission of new drawings, only required the drawings to be somewhat clearer in meeting the Examiner's standards. Further, petitioner argues that the original drawings on file, contrary to the Special Program Examiner's opinion were not based on photographs, but were actually drawing renditions which were deemed by applicants to be adequate for examination of the application. Still further, petitioner argues that although complying with the request of the Special Programs Examiner in obviating the alleged objections to the quality of the drawings, the application originally was and is still deemed to have fully met the standards of the U.S. Patent and Trademark Office and the requirements of the accelerated examination procedure at the time of filing this application.

The written record reveals that corrected drawings were filed January 17, 2008.

MPEP 708.02(a) Subsection VIII.C. Conditions for Examination
The application must be in condition for examination at the time of filing. This means the application must include the following:
(1) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (see MPEP § 607 subsection I);
(2) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (see MPEP § 607 subsection II);
(3) An executed oath or declaration in compliance with 37 CFR 1.63;
(4) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;
(5) A title and an abstract in compliance with 37 CFR 1.72;
(6) Drawings in compliance with 37 CFR 1.84;
(7) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);
(8) Foreign priority claim under 35 U.S.C. 119(a)-(d) identified in the executed oath or declaration or an application data sheet (if applicable);
(9) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (e.g., the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that (a) an English language translation, and (b) a statement that the translation is accurate, have been filed in the provisional application) (if applicable);
(10) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);
(11) No preliminary amendments present on the filing date of the application; and
(12) No petition under 37 CFR 1.47 for a non-signing inventor.
Furthermore, if the application is a design application, the application must also comply with the requirements set forth in 37 CFR 1.151, 1.152, 1.153, and 1.154. Applicant should also provide a suggested classification, by class and subclass, for the application on the transmittal letter, petition, or an application data sheet as set forth in 37 CFR 1.76(b)(3) so that the application can be expeditiously processed.
The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during
the formality review (e.g., a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (subsection II above) does not apply to applications that are not in condition for examination on filing.

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 C.F.R. § 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 C.F.R. § 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the application was not complete under 37 C.F.R § 1.51 and in condition for examination at the time of filing. The corrected drawings filed January 17, 2008 is evidence that the application was not in condition for examination.

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 Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Commissioner for Patents
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DEAN P. ALDERRUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 1022

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Stuart A. FRASER, et al	:	
Application No. 11/947,231	:	DECISION ON PETITION
Filed: November 29, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 99-1002-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 22, 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 copy of Applicant Philip Myron Ginsberg drivers license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at 571-272-3600.

The application is being forwarded to Technology Center Art Unit 3691 for action on the merits commensurate with this decision.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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NOV 19 2008

In re Application of	:	
Fengtai Huang, et. al.	:	
Application No. 11/947,272	:	ON PETITION
Filed: November 29, 2007	:	
Attorney Docket No. 2007P03786US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed December 17, 2007. A Notice of Abandonment was mailed on August 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of four sheets of replacement drawings containing Figures 1-5B; (2) the petition fee of $1,540; 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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AUG 31 2009

OFFICE OF PETITIONS

DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

In re Application of	:	
FRASER, Stuart A. et al.	:	
Application No. 11/947,347	:	DECISION ON PETITION
Filed: November 29, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **99-1002-4**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 22, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement attesting that Philip Myron Ginsberg is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3625 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,357	11/29/2007	W. Vaughn Frick	1-17426	1757

43935 7590 02/28/2008
FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

EXAMINER	
ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
02/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

miller@fraser-ip.com
sloan@fraser-ip.com
crooks@fraser-ip.com

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FROM DIRECTORS OFFICE

FEB 27 2008

TECHNOLOGY CENTER 3600

FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG OH 43551

In re application of : **DECISION ON PETITION**
W. Vaughn Frick : **TO MAKE SPECIAL FOR**
Application No. 11/947,357 : **NEW APPLICATION**
Filed: November 29, 2007 : **UNDER 37 CFR 1.102**
For: TREATMENT MANAGEMENT SYSTEM

This is a decision on the petition filed on November 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document.

An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition in this case fails to comply with conditions II.5, II.5.1, II.5.2, II.6.2, and II.6.5.

Regarding Condition II.5, Applicant has not specified which database service was used to search the non-patent literature files listed on pages 1-2 of the Pre-Examination Search Document.

As per Condition II.5.1, Applicant did not search the database files required by the search template. Applicant is reminded that search templates, specific to each class/subclass, may be found at http://www.uspto.gov/web/patents/searchtemplates/. For example, the instant application is best classified in 705/3. Looking toward the available search templates and recommended areas of search for class 705/3 (see http://www.uspto.gov/web/patents/searchtemplates/class705-002.htm), some of the more relevant search areas would include a text search in the listed Non-Patent Literature database files. A comprehensive list of recommended database files is found on the 705/3 search templates web page as well. Especially relevant to the claimed subject matter are database files such as BIOSIS Previews, Dialog Global Reporter, EMBASE, Gale Group Health & Wellness DatabaseSM, International Pharmaceutical Abstracts (IPA), MEDLINE (Medical Literature, Analysis, and Retrieval System Online), New England Journal of Medicine, Pharmaceutical and Healthcare Industry News Database (PHIND), ProQuest Direct, and Prous Science Drug News & Perspectives.

As per Condition II.5.2, it is not clear whether or not a classification search was performed and, if so, when it was conducted. On page 3 of the Pre-Examination Search Document, Applicant states, "Search- following the recommended search strategy set forth by the USPTO, a review of the relevant patents found by Applicant during the initial Quick Search (Section 2(a)(i) above) and the International Search (Section 2(a)(ii) above) yielded the following initial search strategy." Applicant then lists over 30 International Classes and over 70 U.S. Classes. It is not clear if each of these classes was searched individually or if Applicant is merely identifying where the most relevant documents are classified. Also, there is no mention of when a classification search was conducted. It is noted that a classified search is required in at least the class/subclass in which the application is classified, which is 705/3. Again, while Applicant includes 705/3 as one of the classes related to some of the identified relevant patents, it is not explained if a thorough classification search of 705/3 was conducted and, if so, when.

As per Condition II.5.2, the preexamination search must be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation. While Applicant's searches include many good synonyms for some of the searched concepts, many other concepts are only searched using one or two alternative phrases. Additionally, proximity operators should be used to pick up on phrases that would have the same implications as a particular word queried. For example, Applicant only queries the word "patient" to find the concept of a patient; however, the following alternatives may also be searched either as synonyms of "patient" or to capture the concept of someone who would effectively be treated as a patient: ((under NEAR3 care) OR sick OR sickly OR ill OR illness OR client$1 OR patient$1). Also, Applicant's queries tend to limit the treatment concept to a search of solely "treat$". Alternatives for searching this and analogous aspects of the treatment concept include: (((plan OR plans OR planned OR planning OR manag$3 OR management$1 OR regimen$1 OR course$1 OR approach$2) NEAR5 (treat$3 OR treatment$1 OR cure$1 OR curing OR health OR wellness OR wellbeing OR psychological$3 OR healthcare OR action$1)) OR treatment$1). Similar strategies (e.g., of more effectively utilizing plurals, truncation operators, proximity operators, synonyms, and analogous concepts) should be applied to all searched concepts.

A recommended search might be executed in all databases of East with the following search queries:

> L1: ((under NEAR3 care) OR sick OR sickly OR ill OR illness OR client$1 OR patient$1) SAME (((plan OR plans OR planned OR planning OR manag$3 OR management$1 OR regimen$1 OR course$1 OR approach$2) NEAR5 (treat$3 OR treatment$1 OR cure$1 OR curing OR health OR wellness OR wellbeing OR psychological$3 OR healthcare OR action$1)) OR treatment$1)
>
> L2: L1 AND ((success$5 OR effective$4 OR work$3 OR positive$2 OR correct) NEAR5 (plan OR plans OR planned OR planning OR manag$3 OR management$1 OR regimen$1 OR course$1 OR approach$2 OR treatment$1))
>
> L3: L2 AND (alert$3 OR alarm$3 OR warn$4 OR problem$1 OR problematic$4)
>
> L4: L3 AND ((remind$3 OR alert$3 OR alarm$3 OR warn$4 OR problem$1 OR problematic$4) NEAR5 (overdue OR (past ADJ due) OR late OR miss OR missed))

Please keep in mind that these are non-limiting search suggestions and they are only meant to serve as a possible starting point for Applicant's preexamination search. Additional guidance regarding the proper manner of performing and

documenting a preexamination search may be found on the following web site: http://www.uspto.gov/web/patents/accelerated/ Applicant is expected to perform more supplemental searches than the sample search queries listed above.

Regarding Condition II.6.2, Applicant fails to specifically map out each claim limitation to each of the references cited on the submitted Information Disclosure Statements. This should be done for each claim as it pertains to each reference cited on the IDS. If Applicant feels that certain references are less relevant to the patentability determination of the claimed invention and, therefore, would prefer not to map these references in detail to each claim limitation, then Applicant may submit an IDS that is explicitly designated as the IDS pertinent to the Accelerated Examination petition. Less relevant references may be cited on a separate IDS. Specific guidance regarding the proper content of an IDS submitted with a Petition for Accelerated Examination may be found at http://www.uspto.gov/web/patents/accelerated/ae_faq_091207.pdf (see pages 1-3 in particular).

As to Condition II.6.5, the Accelerated Examination Support Document does not map out where each limitation of all claims specifically finds support in the specification of the instant application as well as in the specifications of parent application no. 11/356,384 and parent application no. 60/692,627.

The petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

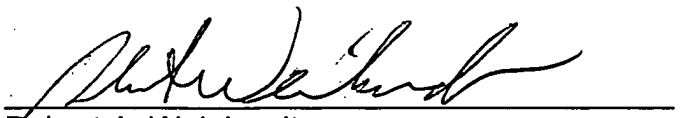
DECISION

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 one (1) month or thirty (30) days, whichever is longer, from the date of this decision. No extensions of time will be granted under 37 CFR 1.136(a) if the request is 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, or Susanna Diaz at (571) 272-6733.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/SMD/2/15/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,357	11/29/2007	W. Vaughn Frick	1-17426	1757

43935 7590 05/09/2008
FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

EXAMINER	
ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
05/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

miller@fraser-ip.com
sloan@fraser-ip.com
crooks@fraser-ip.com

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TECHNOLOGY CENTER 3600

FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG OH 43551

In re application of
Vaughn Frick
Application No. 11/947,357
Filed: November 29, 2007
For: TREATMENT MANAGEMENT SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the renewed petition filed on March 27, 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**.

A petition to make special was filed in the above-identified application under 37 CFR 1.102(d) on November 29, 2007. That petition was dismissed in a decision mailed February 28, 2008 wherein a non-extendible period of 1 (one) month or 30 (thirty) days, whichever was longer, was set to request reconsideration.

The reasons for the dismissal included a finding of an inadequate Search Document and an inadequate Support Document.

Specifically, with respect to the Search Document, the reasons for dismissal indicated that the database service was not specified for the non-patent literature files on pages 1-2 of the Search Document.

Applicant responds that the service was set forth in Paragraph 1(e) of the Search Document. However, Paragraph 1(e) identifies several *files* searched, not the database service used to search the file. By way of example, Paragraph 1(e) of the document states in part: "Non-patent literature...a general internet search strategy was employed using search engines:... DIALINDEX ... ABI/INFORM ...CMP Computer Fulltext...Computer News Fulltext". No "engine" or database service by these names have been found. These appear to identify *files* that e.g. are available through ProQuest or Dialog database *services*. The Search Document is required to identify not only the file, but the service as well.

Further with respect to the Search Document, the reasons for dismissal indicated that the search did not include the database files identified by the USPTO's search templates.

Applicant responds that a broad search template was followed, that applicant did not begin the strategy with the benefit of the determined classification and offered that initially narrowing the search to a particular subclass was risky. Applicant further asserts that the databases searched by applicant listed in Paragraphs 1(a-e) of the Search Document encompass the databases listed in the search template for the assigned classification. While it is appreciated that applicant did not have the benefit of the USPTO's classification at the time of filing, the databases listed in Paragraphs 1(a-e) of the Search Document do not appear, as asserted, to encompass e.g. MEDLINE, BIOSIS Previews, Gale Group Health & Wellness DatabaseSM, identified in the dismissal as part of the template, and no explanation is given as to how those databases are seen to be encompassed. Applicant has not otherwise provided justification with reasonable certainty that no references more pertinent than those already found in the eliminated source are likely to be found. Without the explanation, justification, or search in the template's files, applicant's search does not meet the criteria for grant.

Also with respect to the search document, the reasons for dismissal indicated that the search did not give the claims the broadest reasonable interpretation.

Applicant responds by way of example that the term "treat$" is broader than the suggested terms such as "sick" and at least as broad as "care". However, applicant appears to be confusing the breadth in coverage of claim terms with the breadth of possible embodiments in the prior art that might read on the claim term. In other words, while "treat" as used in a claim may *cover* the practice of "caring for a sick patient", a search using only "treat" does not necessarily *find* a document that uses such synonymous terms as "caring for a sick patient". While it is appreciated that the decision provided only exemplary searches, no updated Search Document was provided in response to this requirement to consider.

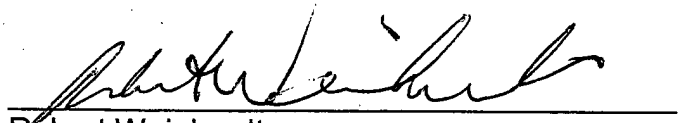
With respect to the mapping of the claims to the prior art in the submitted IDS, the reasons for dismissal indicated that applicant did not map out the claims with respect to each of the references cited on the IDS. It was suggested that applicant split the IDS into an IDS pertinent to the Accelerated Examination petition and a separate IDS of less relevant references.

Applicant responds by amending the title of the IDS, but this does not either map the claims to each of the references on the IDS, or produce 2 IDS documents, one of art in support of the petition and a separate IDS of art not deemed "most closely related" to the claims.

For the above stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is reminded that a only single opportunity to perfect the petition is given. Therefore, further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Business Practice Specialist Robert Weinhardt at (571) 272-6633.



Robert Weinhardt
Business Practice Specialist
Technology Center 3600

5/8/08

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of:
KANDO, TATSUYA et al
Serial No.: 11/947,367
Filed: Nov. 29, 2007
Docket: P32417
Title: VIDEO GAME PROCESSING APPARATUS, A METHOD AND A COMPUTER PROGRAM PRODUCT FOR PROCESSING A VIDEO GAME

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY (PPH) AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed Dec. 1, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

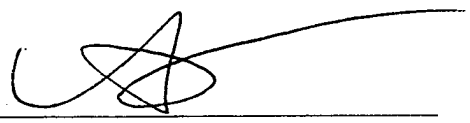
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more corresponding application(s) filed in the JPO or to a PCT application that does not contain any priority claim, or the U.S. application must be a national stage entry of a PCT application that does not contain any priority claim;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and the petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Petition is **granted**.



Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of
Wang, et al.
Application No. 11/947,522
Filed: November 29, 2007
Atty. Dkt. No.: 31336/40993A

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a) filed July 17, 2008.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed December 17, 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.

The petition and accompanying documentation seem to imply that the non-signing inventor cannot be reached or located. Petitioners indicate that attempt to reach the non-signing inventor via telephone, email, and mail have been unsuccessful. Petitioners further indicate that mail sent to the non-signing inventor at the non-signing inventor's last known address was returned because the address had been "demolished."

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort has been made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be reached or located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (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 is not acceptable because it fails to set forth the citizenship of the legal representative of the deceased inventor in accordance with 37 CFR 1.63(a)(3). *See*, *also*, MPEP 409.01(f).

A newly executed oath or declaration is required.

As to item (3), the required petition fee of $200.00 has been received.

As to item (4), the last known address of the non-signing inventor has been provided. However, should further research result in a more current last known address, such should be set forth in a statement upon renewed petition.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. Ordinarily, the last known address will be the last known residence of the non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP §§ 409.03(e) and 605.03.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 11/947,522
Filed: November 29, 2007
Atty. Dkt. No.: 31336/40993A

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION

Papers filed on February 26, 2009 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed September 2, 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(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).

It is noted that the address set forth for the previously non-signing inventor does not appear to have been updated, despite the inventor having executed the declaration. Petitioners are advised that changes in address/residence may be made by supplemental application data sheet, if appropriate.

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/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,639	11/29/2007	Brian Charles Cope	GB920070109US1 (21550)	1288

48233 7590 02/15/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
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EXAMINER	
WILEY, DAVID ARMAND	

ART UNIT	PAPER NUMBER
2174	

MAIL DATE	DELIVERY MODE
02/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SUITE 300
GARDEN CITY, NY 11530

In re Application of: COPE, et al. Serial No.: 11/947,639 Filed: November 29, 2007 Docket: GB920070109US1 Title: USE OF TEMPLATE MESSAGES TO OPTIMIZE A SOFTWARE MESSAGING 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 November 29, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees that the dependent claims will be grouped together with and not to separately argue the patentability of any independent claim from which they depend 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 conditions I. 1-4 & II. 1-5, 5.1, 6.2 - 6.4 & 6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.2 - 5.3, 6.1 & 6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items 5.2 - 5.3 above, the preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the (instant) claims.

Specifically and with respect to items 5.2 - 5.3 above, based upon the claimed subject matter of the instant application, a search in the following class and subclass(es) is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: class 715 [DATA PROCESSING: PRESENTATION PROCESSING OF DOCUMENT, OPERATOR INTERFACE PROCESSING, AND SCREEN SAVER DISPLAY PROCESSING], subclass 764 ([ON-SCREEN WORKSPACE OR OBJECT] and currently the original classification of the instant application) as well as class 715 subclasses 745, 966 and 968 to cover the claim language with respect to pattern identifying or changes in the user's cache, as claimed.

With respect to the search logic identified, with respect to claim 1, other terms detailing the "pattern detection" in the messages and "correlation identifiers", should be included. Further, in the "Pre-Examination Search Document" on page 3 line 8 from the bottom, the following typo appears in the search logic: "70/101" should apparently be --707/101--, correction (and updated search) is required.

The additional search areas and search recommendations were confirmed with and recommended by a (primary) examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(1) and item 6.1 above, on cited form PTO-1449, the reference to "Kim et al." under "Other Prior Art" is listed to include pages 534-544, however only pages 534-541 have been provided by Petitioner. Correction is required. For this reason, the petition does not meet the requirement of MPEP § 708.02(a)(I.)(I)(1).

With respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, Petitioner fails to identify where each limitation of the instant claims finds support under 35 USC 112, first paragraph, in the written description of the specification. The text set forth in 35 USC 112 first paragraph is as follows:

> **35 U.S.C. 112 Specification.**
> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

[1] MPEP 8th ed. rev 5 August 2006

Support for each limitation of each pending claim must be properly identified (by page, line or paragraph and/or figure, as needed). Specifically, reference is made to Petitioner's ***general*** allegation that support in the disclosure under 35 USC 112, first paragraph, are summarily found for claim 1 "in paragraphs [0006] - [0034]". In addition, note that at least the following claim 1 limitation has not been identified with its corresponding 35 USC 112, first paragraph support: "storing said each template message identified by a corresponding correlation identifier; for each message being communicated". Clarification and identification of support for each limitation in the claims is required.

Thus, the petition does not meet the conditions II. 5.2-5.3, 6.1 and 6.5 above.

DECISION

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given ***a single opportunity*** to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a) is permitted) from the date of this decision in order to be considered timely. Any request for reconsideration ***must fully address all of the deficiencies indicated above***. [emphasis added]

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595. If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.

Brian L. Johnson
Quality Assurance Specialist, WG 2110
Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/947,639	11/29/2007	Brian Charles Cope	GB920070109US1 (21550)	1288

48233 7590 04/16/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
WILEY, DAVID ARMAND	

ART UNIT	PAPER NUMBER
2174	

MAIL DATE	DELIVERY MODE
04/16/2008	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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04/15/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

In re Application of:
COPE, et al.
Serial No.: 11/947,639
Filed: November 29, 2007
Docket: GB920070109US1
Title: USE OF TEMPLATE MESSAGES TO OPTIMIZE A SOFTWARE MESSAGING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on March 13, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on November 29, 2007 was dismissed in the decision mailed on February 15, 2008.

In the renewed petition and its attachments filed March 13, 2008, it is noted that the reference to Cheng et al. (US 5,608,396) is listed on ***both*** IDS forms 1449 (identifying references as "In support of the Petition to Make Special" and NOT in support of the Petition to Make Special"). However, upon review, it is clear from the Accelerated Examination Support Document (Amended), also filed on March 13, 2008, that the intent by Applicant was to include the reference to Cheng et al. solely on the IDS form 1449 for those references cited "In support of the Petition to Make Special" (see discussion with respect to Cheng et al. on pages 4 and 6 thereof).

The renewed petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the

amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application. In addition, Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595.

Brian Johnson, WQAS 2110
Technology Center 2100
Computer Architecture, Software and Information Security

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ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

MAILED

MAR 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael A. Colabucci	:	
Application No. 11/947,651	:	DECISION ON PETITION
Filed: November 29, 2007	:	TO WITHDRAW
Attorney Docket No. 053798/337213	:	FROM RECORD
	:	

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 16, 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 Brian C. Ellsworth on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 16, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Finance and Compliance Solutions**
c/o Rocky Robinson
9385 Washington Blvd.
Laurel, MD 20723

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/947,651	11/29/2007	Michael A. Colabucci	053798/337213

CONFIRMATION NO. 1311

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POWER OF ATTORNEY NOTICE

OC000000040470764

Date Mailed: 03/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/16/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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XTENT, INC.
c/o Levine Bagade Han, LLP
2483 E. Bayshore Road
Palo Alto, CA 94303

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NOV 26 2008

OFFICE OF PETITIONS

In re Application of :
Dan Jeffery Hammersmark, et. al. :
Application No. 11/947,677 : ON PETITION
Filed: November 29, 2007 :
Attorney Docket No. XTNTNZ00401 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 8, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a complete reply to the Notice to File Missing Parts of Nonprovisional Application mailed on December 18, 2007. A Notice of Abandonment was mailed August 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $442 for claims in excess of twenty and $110 for one independent claim in excess of three; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,175 for a five month extension of time filed on October 8, 2008. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and petitioner may request that the fee be credited back to the credit card, 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 file is being referred to the Office of Patent Application Processing for further processing.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Mar-08

JULIE BLACKBURN
REVLON CONSUMER PRODUCTS CORPORATION
237 PARK AVENUE
NEW YORK NY 10017

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Vena et al.	:	DECISION ON PETITION
Application Number: 11/947680	:	
Filing Date: 11/29/2007	:	
Attorney Docket Number:	:	
Rev.02.13	:	

This is in response to the "PETITION TO ESTABLISH RECEIPT IN THE P.T.O. OF ITEM(S) CONSIDERED AS OMITTED BY THE P.T.O.—RESPONSE TO NOTICE OF INCOMPLETE APPLICATION" filed on February 1, 2008, which is treated as a petition requesting that the above-referenced application be accorded a filing date of November 29, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on November 29, 2007. However, on December 17, 2007, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[2]

In response, applicants timely filed this petition.

The petition states, in pertinent part:

> Applicant asserts that the items indicated as omitted were filed with the original application papers filed in the copending parent application 10/454,405, filed

---

[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.

[2] The Notice mailed on November 29, 2007, also required an executed oath or declaration. The executed declaration was filed on January 2, 2008. A new Notice of Incomplete Application, stating the drawings were still missing, was mailed on January 8, 2008.

> on June 4, 2003, from which this application claims priority under 37 CFR § 1.78.
>
> Applicant wants to rely on 37 CFR § 1.57(a) to add inadvertently omitted material to the above-identified application.

Petitioners' arguments and evidence have been considered. However, it is controlling that a review of the application confirms that as filed the application contained at least one method claim. MPEP 601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g), if an application is entitled to a filing date, the mailing of a Notice of Omitted Items will permit *inter alia*:

> If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a). The amendment should be submitted in response to the Office action and must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

No petition is required. Petitioners may wish to consider filing a preliminary amendment to enter the inadvertently omitted drawings. If a preliminary amendment is filed, it will be reviewed for new matter by the examiner.

To the extent the instant petition requests a filing date of November 29, 2007, with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded to counsel's deposit account, as authorized.

The Office of Patent Application Processing (OPAP) has been advised of this decision. Pursuant to this decision, the application has been referred to OPAP for:

- **correction of the filing date to November 29, 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 concerning this matter may be directed to Senior Petitions Attorney, Douglas I. Wood at 571.272.3231.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Kouji Seki	: DECISION ON REQUEST FOR
Patent Number	: 7626896	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/947,696	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **32** 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.

Best Available Copy

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Alexandria, VA 22313-1450
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VERMETTE & CO.
SUITE 320 - 1177 WEST HASTINGS STREET
VANCOUVER BC V6E2K-3 CA CANADA

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APR 2 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Phi Tran	:	DECISION ON PETITION
Application No. 11/947,709	:	TO WITHDRAW
Filed: November 29, 2007	:	FROM RECORD
Attorney Docket No. 2561-100	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 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 Denis O'Brien on behalf of all attorneys of record associated with Customer Number 32084. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Phi Tran	:	DECISION ON PETITION
Application No. 11/947,709	:	TO WITHDRAW
Filed: November 29, 2007	:	FROM RECORD
Attorney Docket No. 2561-100	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Denis O'Brien on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is 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: Phi Tran
12415 Keepers Trail
Cypress, Texas 77429

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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AUG 25 2008

In re Application of
Cameron, et al.
Application No. 11/947,717
Filed: November 29, 2007
Attorney Docket No. 7758-0288

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 8, 2008.

The petition is **DISMISSED**.

Rule 47 applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (2) set forth above.

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 post office address is the same. Given the fact that Mr. Wilson no longer works at QinetiQ Limited, 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 for Mr. Wilson. 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. Wilson is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Cameron, et al.	:	DECISION ACCORDING STATUS
Application No. 11/947,717	:	UNDER 37 CFR 1.47(a)
Filed: November 29, 2007	:	
Attorney Docket No. 7758-0288	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 17, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Christopher Wilson, has constructively refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(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 should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTOPHER WILSON
ALPORT HOUSE
ALPORT ROAD
WHITCHURCH
SHROPSHIRE, SY131NR
UNITED KINGDOM

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Cameron, et al. :
Application No. 11/947,717 : LETTER
Filed: November 29, 2007 :
Attorney Docket No. 7758-0288 :

Dear Mr. Wilson:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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JUN 03 2010

OFFICE OF PETITIONS

In re Application of
Michael A. Sheha, et al.
Application No. 11/947,719
Filed: November 29, 2007
Attorney Docket No. 513162000211

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

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A PROFESSIONAL CORPROATION
1319 PARK STREET, SUITE 100
ROBBINSVILLE, NJ 08691

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Christine Podilchuk :
Application No. 11/947,726 : DECISION ON PETITION
Filed: November 29, 2007 : TO WITHDRAW
Attorney Docket No. 05-11385-18A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request was signed by Richard A. Catalina, Jr. on behalf of all attorneys of record who are associated with customer No. 33296. All attorneys/agents associated with the Customer Number 33296 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquires 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: CHRISTINE PODICHUK
D AND S CONSULTANTS, INC.
12 CHRISTOPHER WAY
SUITE 301
EATONTOWN, NJ 07724

cc: D AND S CONSULTANTS, INC.
ATTN: DANIEL CARRAI
12 CHRISTOPHER WAY
SUITE 301
EATONTOWN, NJ 07724

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
11/947,726	11/29/2007	Christine Podilchuk	05-11385-18A

CONFIRMATION NO. 1462

POWER OF ATTORNEY NOTICE

33296
Catalina & Associates
A Professional Corporation
1319 Park Street, Suite 100
Robbinsville, NJ 08691

Date Mailed: 06/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/21/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

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 : 5/19/09

TO SPE OF : ART UNIT 2891 Thai, Luan

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/947727 Patent No.: 7429522

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

[signature]
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: _____

[signature] Rose
SPE

2891
Art Unit

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A PROFESSIONAL CORPORATION
1319 PARK STREET, SUITE 100
ROBBINSVILLE NJ 08691

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of
PODILCHUK, Christine
Application No. 11/947,734
Filed: November 29, 2007
Attorney Docket No. **05-11385-19A**

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 21, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Richard Catalina, the sole attorney of record. Richard Catalina has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor 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: **CHRISTINE PODILCHUK**
D & S CONSULTANTS, INC.
12 CHRISTOPHER WAY
SUITE 301
EATONTOWN NJ 07724

cc: **D AND S CONSULTANTS, INC.**
ATTN: DANIEL CARRAI
12 CHRISTOPHER WAY
EATONTOWN, NJ 07724

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United States Patent and Trademark Office
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DIW Apr-09

MENACHEM ZEV LEVORITZ
2145 EAST 23RD STREET
BROOKLYN NY 11229

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APR 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Moshe Benjamin Kanner	:	DECISION ON PETITION TO
Application Number: 11/947781	:	WITHDRAW HOLDING OF
Filing Date: 11/30/2007	:	ABANDONMENT
Attorney Docket Number: KANNER1	:	
	:	

This is a decision on the petition filed on February 18, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on January 27, 2009, stating that the application was abandoned for failure to timely file a reply to the Notice to File Missing Parts mailed on December 27, 2007.

Petitioners assert that the Notice of Abandonment should be withdrawn because a timely reply was filed.

A review of the record reveals that on November 30, 2007, the application was filed by EFS-Web.

Also on November 30, 2007, a credit card payment form was filed by facsimile, stating payment of $435.00 (the amount due for the statutory basic filing fee, application search fee, and application examination fee), is hereby being provided.

On December 14, 2007, the Office of Patent Application Processing placed a document in the file stating that "Credit Card Invalid–Tried to call Customer Telephone Number (given) was not in service."

On December 27, 2007, the Notice to File Missing Parts of Nonprovisional Application was mailed, stating that the basic filing fee, surcharge, search fee, and examination fee were required.

On February 4, 2008, petitioner filed a response to the Notice to File Missing Parts. The statutory basic filing fee, examination fee, and search fee were paid.

Applicant asserted that the late-filing surcharge should not be required because a proper credit card authorization had been filed by fax on November 30, 2007, but the payment had not been credited because the credit card information and telephone number provided had been misread by the USPTO.

On January 27, 2009, Notice of Abandonment was filed.

On February 18, 2009, the subject petition was filed. Petitioner again asserts that the surcharge is not required because authorization to charge the filing fee, examination fee, and search fee was in fact present on November 30, 2007, but that the credit card information was not properly processed by the USPTO. A copy of the cover letter showing the credit card form was filed with a certificate of mailing dated November 30, 2007, is also included.

Upon review, it appears that the error in processing the credit card information was not due to an error on the part of petitioner. Accordingly, it is appropriate to withdraw the holding of abandonment.

Upon review, it is concluded that a timely and proper fee payment was filed on November 30, 2007. Therefore, there is no abandonment in fact.

The holding of abandonment is **withdrawn**. The Notice of Abandonment is **vacated**.

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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IBM (RPS-BLF)
c/o BIGGERS & OHANIAN, LLP
P.O. BOX 1469
AUSTIN TX 78767-1469

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Chu, et al. :
Application No. 11/947,819 : ON PETITION
Filed: November 30, 2007 :
Attorney Docket No. RPS920040098US3

This is regarding the petition under 37 CFR 1.137(b) filed on September 22, 2008.

The petition is **GRANTED**.

The application became abandoned on February 2, 2008, after no response was received to the Notice to File Corrected Application Papers mailed December 1, 2007, which 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. The notice required replacement drawings to be filed. No response was received within the allowable period, and the application became abandoned on December 22, 2005. A Notice of Abandonment was mailed onSeptember 10, 2008.

The replacement drawings, filed September 22, 2008, are noted.

This application is being directed to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NOV 2 8 2008

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

In re Application of :
Thomas S. Murphy :
Application No. 11/947,933 : ON PETITION
Filed: November 30, 2007 :
Attorney Docket No. 0003317.00129US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed December 27, 2007, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 28, 2007. A Notice of Abandonment was mailed on September 8, 2008. On September 9, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for review of the drawings provided September 9, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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.
11/947,940	11/30/2007	Tetsuya WATANABE	MNL-2635-546	1844

7590 01/08/2010

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
STERN, JACOB R	

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
01/08/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/12/2010 [illegible]

Credit Card Refund Total: $510.00

Adjustment date: 01/11/2010 [illegible]
01/11/2008 [illegible]
04 FC:1111 -510.00 DP

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WARD AND SMITH, PA
127 RACINE DRIVE
P.O. BOX 7068
WILMINGTON, NC 28406-7068

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Jian TANG :
Application No. 11/947,942 : DECISION ON PETITION TO
Filed: November 30, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **1342-0004** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **WARD AND SMITH, PA** has been revoked by the assignee of the patent application on March 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 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **IBM-ROCHESTER**
C/O TOLER LAW GROUP
8500 BLUFFSTONE COVE, SUITE A201
AUSTIN, TX 78759

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OFFICE OF PETITIONS

HOLME ROBERTS & OWEN LLP-CLIENT-1
1700 LINCOLN STREET, SUITE 4100
DENVER CO 80203

In re Application of :
David R. Hall et al :
Application No. 11/947,949 : NOTICE
Filed: November 30, 2007 :
Attorney Docket No. 85.0217 :

This is in response to the paper filed April 7, 2010, which is being treated under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the April 7, 2010 request, status as a Small Entity has been removed.

The Power of Attorney submitted on April 7, 2010, has been accepted.

Any inquiries concerning the above matter may be directed to the undersigned at (571) 272-3208.

This file is being referred to Technology Center AU 3676 to await a reply to the final rejection mailed February 22, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Van Luchene et al.	:	DECISION ON PETITION
Application No. 11/948,036	:	TO WITHDRAW
Filed: November 30, 2007	:	FROM RECORD
Attorney Docket No. 3204201	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **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 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 cannot be approved since the above listed certifications were not made. Further, practitioners cannot withdraw because the correct Customer Number was not provided. Accordingly, any subsequent requests must include all certifications pursuant to 37 CFR 10.40 and must reflect the Customer Number that was appointed power of attorney.

There are no outstanding Office actions that require a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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ALBUQUERQUE, NM 87114

In re Application of	:	
Van Luchene et al.	:	DECISION ON PETITION
Application No. 11/948,036	:	TO WITHDRAW
Filed: November 30, 2007	:	FROM RECORD
Attorney Docket No. 3204201	:	

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 **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed power of attorney via Customer Number. However, the request herein does not indicate a customer number to withdraw as attorney or agent by. Therefore, the current request cannot be approved. Any subsequent request must withdraw all associated practitioner(s) of record in the same manner as appointed.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

There is an outstanding Final Office action mailed April 8, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Van Luchene et al.	:	DECISION ON PETITION
Application No. 11/948,043	:	TO WITHDRAW
Filed: November 30, 2007	:	FROM RECORD
Attorney Docket No. 3205201	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 5, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Gonzales Patent Services was never appointed as power of attorney in the above-identified patent application. Therefore, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further, the request to change the correspondence address of record is not accepted in view of Gonzales Patent Services not having power of attorney. See MPEP §§ 601.03 and 405. All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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APR 2 8 2010

OFFICE OF PETITIONS

ANDREW VAN LUCHENE
1677 CERRO GORDO
SANTA FE, NM 87501

In re Application of	:	
Van Luchene et al.	:	DECISION ON PETITION
Application No. 11/948,043	:	TO WITHDRAW
Filed: November 30, 2007	:	FROM RECORD
Attorney Docket No. 3205201	:	

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 **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed power of attorney via Customer Number. However, the request herein does not indicate a customer number to withdraw as attorney or agent by. Therefore, the current request cannot be approved. Any subsequent request must withdraw all associated practitioner(s) of record in the same manner as appointed. 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.

There is an outstanding Final Office action mailed April 8, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

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NOV 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Van Luchene et al. :
Application No. 11/948,050 :
Filed: November 30, 2007 :
Attorney Docket No. 3206201 :

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 5, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 cannot be approved since the above listed certifications were not made. Further, practitioners cannot withdraw because the correct Customer Number was not provided. Accordingly, any subsequent requests must include all certifications pursuant to 37 CFR 10.40 and must reflect the Customer Number that was appointed power of attorney.

There are no outstanding Office actions that require a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

C. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Van Luchene et al.	:	DECISION ON PETITION
Application No. 11/948,050	:	TO WITHDRAW
Filed: November 30, 2007	:	FROM RECORD
Attorney Docket No. 3206201	:	

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 **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number.

In the instant application, the practitioner(s) were appointed power of attorney via Customer Number. However, the request herein does not indicate a customer number to withdraw as attorney or agent by. Therefore, the current request cannot be approved. Any subsequent request must withdraw all associated practitioner(s) of record in the same manner as appointed.

All future communications from the Office will continue to be directed to the above-listed address until properly notified.

There are no outstanding Office actions that require a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of :
Gerd Wallukat :
Application No. 11/948,064 :
Filed: November 30, 2007 :
Attorney Docket No.102530-(8) :

DECISION GRANTING PETITION

This is a decision on the petition filed June 10, 2008, that is responsive to the "Notice of Incomplete Nonprovisional Application" (the "Notice") mailed April 10, 2008.

On November 30, 2007, the application was deposited.

On April 10, 2008, the Office of Patent Application Processing mailed the Notice stating that no filing date had been accorded the application because drawings were not found with the original disclosure, but appeared to be required to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on June 10, 2008.

Petitioner request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.78 to a prior filed and co-pending application. Petitioner's arguments have been considered, however; it is controlling that a review of the application confirms that the application, as filed, contained at least on method claim. The Manual of Patent Examining Procedure, Section 601.01(f) provides that:

> It has been PTO practice to treat an application that contains at least one process, composition, or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. The application is entitled to a filing date without drawings present in the application.

Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Nonprovisional Application. As stated in MPEP 601.01(g), if an application is entitled to a filing date, the mailing of a Notice of Omitted Items will permit *inter alia*:

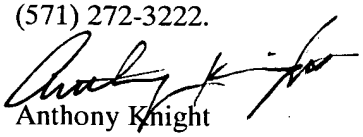
> If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, non-provisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a). The amendment should comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

No petition is required. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings.

The petition is granted to the extent the instant petition requests a filing date of January 16, 2007, with no drawings present in the application.

The Office of Patent Application Processing has been advised of this decision. Pursuant to this decision, the application has been referred to the Office of Patent Application Processing for correction of the filing date to November 30, 2007, indication in Office records that no sheets of drawings were present on filing, and for issuance of a filing receipt.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.



Anthony Knight
Supervisor
Office of Petitions

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Catalina & Associates
A Professional Corporation
1319 Park Street, Suite 100
Robbinsville, NJ 08691

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of :

Christine PODILCHUK :
Application No. 11/948,072 :
Filed: November 30, 2007 :
Attorney Docket No. **05-11385-20A** :

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 21, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Richard A. Catalina Jr. on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 5, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **DR. CHRISTINE PODILCHUK**
D & S CONSULTANTS, INC.
12 CHRISTOPHER WAY
EATONTOWN, NJ 07724

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :
Lars KONIG, et al :
Application No. 11/948,075 : DECISION ON PETITION
Filed: November 30, 2007 : TO WITHDRAW
Attorney Docket No. 11336/1774 (P06119US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

The request cannot be approved because the attorneys of record were not appointed by Customer Number 81166, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL
INDUSTRIES, INC.
8500 BALBOA BOULEVARD
NORTHDRIDGE, CA 91329

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :
Mohamed KRINI, et al :
Application No. 11/948,137 : DECISION ON PETITION
Filed: November 30, 2007 : TO WITHDRAW
Attorney Docket No. 11336/1780 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

The request cannot be approved because the attorneys of record were not appointed by Customer Number 81166, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL
INDUSTRIES, INC.
8500 BALBOA BOULEVARD
NORTHDRIDGE, CA 91329

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 (ATTENTION: PETER G. THURLOW)
222 EAST 41ST STREET
NEW YORK NY 10017

COPY MAILED
DEC 03 2008

In re Application of

DANANBERG, Howard J.
Application No. 11/948,144
Filed: November 30, 2007
Attorney Docket No. **11693-005-999**

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, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (04-08).

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: **HAYES SOLOWAY PC**
3450 E. SUNRISE DRIVE
SUITE 140
TUCSON AZ 85718

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Howard J. Dananberg	: DECISION ON REQUEST FOR
Patent Number	: 7594346	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/948,144	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCGLINCHEY STAFFORD, PLLC
ATTN: IP GROUP
301 MAIN STREET, 14TH FLOOR
BATON ROUGE, LA 70802

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Rafle P. Guthrie, Jr. :
Application No. 11/948,226 :
Filed: November 30, 2007 :
Attorney Docket No. S-1031 :

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 13, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 R. Andrew Patty, II on behalf of all attorneys of record who are associated with customer No. 02071. All attorneys/agents associated with the Customer Number 02071 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: RAFLE P. GUTHRIE, JR
553 DUNKIRK AVENUE
GRETNA, LA 70056

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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.
11/948,257	11/30/2007	Rainer Dittmar	1020-028US01	2432

7590 09/04/2008

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

EXAMINER	
HEWITT, JAMES M	

ART UNIT	PAPER NUMBER
3679	

NOTIFICATION DATE	DELIVERY MODE
09/04/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 09/03/2008 NFARMER
12/03/2007 INTEFSW 00000605 501778 11948257
02 FC:1111 510.00 CR

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BRINKS HOFER GILSON & LIONE/ANN ARBOR
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR MI 48104

COPY MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Licai Jiang	:	
Application No. 11/948,304	:	DECISION ON PETITION
Filed: November 30, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10544-424	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 26, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application 11/142,862, filed May 31, 2005, set forth in the Amendment and ADS filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2882 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed application No. 11/142,862.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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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
11/948,304	11/30/2007	2882	1386	10544-424	24	2

CONFIRMATION NO. 2517

CORRECTED FILING RECEIPT

80711
Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

Date Mailed: 08/10/2009

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)

Licai Jiang, Rochester Hills, MI;

Assignment For Published Patent Application

Osmic, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 00757

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US06/00290 01/04/2006
which is a CON of 11/142,862 05/31/2005 PAT 7,139,366

Foreign Applications

If Required, Foreign Filing License Granted: 12/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/948,304**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

TWO-DIMENSIONAL SMALL ANGLE X-RAY SCATTERING CAMERA

Preliminary Class

378

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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Paper No.

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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AUG 0 4 2008

In re Application of	:	
Frank Dipaolo, Matthew	:	
Markefka, and Clifford Fay	:	
Application No. 11/948,371	:	DECISION ON PETITION
Filed: November 30, 2007	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.47(A)
P09097US01/WEJ	:	
Title: GROWING CONTAINERS	:	
	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed June 17, 2008.

This petition pursuant to Rule 1.47(a) is **DISMISSED.**

This application was filed on November 30, 2007, listing Frank Dipaolo, Matthew Markefka, and Clifford Fay as joint inventors. The application was deposited without a fully executed declaration. On December 17, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R.

§ 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

With this petition, Petitioner has submitted a declaration that has been executed by each of the joint inventors save Mr. Fay along with the surcharge that is associated with the late submission of the same, the petition fee, the last-known address of the non-signing joint inventor, and a copy of an e-mail.

Petitioner has met requirements (1) - (3) and (5) of Rule 1.47(a).

Regarding the fourth requirement of Rule 1.47(a), Petitioner has set forth that the non-signing inventor orally refused to execute the declaration in a telephone conversation with Petitioner on March 4, 2008. Petitioner has further set forth that a copy of this application was provided to the non-signing inventor via e-mail on May 12, 2008.

Regarding the method of transmission, the transmission of documents via e-mail, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from the non-signing inventor that he has received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an e-mailed document was in a form that can be read and comprehended.

Regarding the refusal, this oral refusal was made prior to the above-mentioned e-mail, and it follows that one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under Rule § 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[1].

Before filing any renewed petition, Petitioner should mail a complete copy of the application to the last known residential address of the non-signing joint inventor, and provide him with a reasonable period of time to respond. Petitioner should note that any statement that pertains to the presentation should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

---

1 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank Dipaolo, Matthew	:	
Markefka, and Clifford Fay	:	
Application No. 11/948,371	:	DECISION ON RENEWED PETITION
Filed: November 30, 2007	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.47(A)
P09097US01/WEJ	:	
Title: GROWING CONTAINERS	:	

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed October 6, 2008.[1]

This renewed petition pursuant to Rule 1.47(a) is **GRANTED**.

This application was filed on November 30, 2007, listing Frank Dipaolo, Matthew Markefka, and Clifford Fay as joint inventors. The application was deposited without a fully executed declaration. On December 17, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the

1 It is noted that October 4, 2008 fell on a Saturday.

petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);

(3) a statement of the last known address of the non-signing inventors;

(4) either

a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on June 17, 2008, along with a declaration that has been executed by each of the joint inventors save Mr. Fay, the surcharge that is associated with the late submission of the same, the petition fee, the last-known address of the non-signing joint inventor, and a copy of an e-mail. The original petition was dismissed via the mailing of a decision on August 4, 2008, which indicated that requirements (1) - (3) and (5) of Rule 1.47(a) had been satisfied.

With this renewed petition, Petitioner has established that a complete copy of the application was mailed to the last known residential address of the non-signing joint inventor.

As such, each of the five requirements of 37 C.F.R. § 1.47(a) has been satisfied. This application is hereby accorded Rule 1.47(a) status.

As provided in 37 C.F.R. § 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address which appears on the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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United States Patent and Trademark Office
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012008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

JAN 29 2008

In re Application of:
Pradip Bose et al.
Serial No.: 11/948,376
Filed: November 30, 2007
Docket Number: YOR920070446US1 (21454)
Title: METHOD AND ON-CHIP CONTROL APPARATUS FOR ENHANCING PROCESS RELIABILITY AND PROCESS VARIABILITY THROUGH 3D INTEGRATION

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102

This is a decision on the petition filed on November 15, 2007 to make the above-identified application special for accelerated examination procedure in accordance with 37 C.F.R. § 1.102(c)(2).

The petition to make the application special is **DENIED**.

Effective August 25, 2006, the accelerated examination procedure outlined under Manual for Patent Examining Procedure (MPEP) § 708.02.VIII was replaced by the new accelerated examination procedure outlined in MPEP § 708.02(a) and in the Federal Register, vol. 71, No. 122 of June 26, 2006 (71 Fed. Reg. 36323).

To be eligible for accelerated examination in accordance with 37 C.F.R. § 1.102(d) and pursuant to MPEP § 708.02(a), the following conditions are required:

1. the application is not a reissue utility or design application filed under 37 C.F.R. § 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. the application, at the time of filing, must be complete under 37 C.F.R. § 1.51 and in condition for examination;

Copied from 11946376 on 02/05/2008

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 MPEP § 708.02(a), and in accordance with 37 C.F.R. § 1.102(c)(2) because the application was not complete under 37 CFR 1.51 and in condition for examination at the time of filing in view of the issuance of a Notice to file Corrected Application Papers on December 13, 2007, notifying the applicant of the informalities found in the drawings.

For the above-stated reasons, the application as filed is not eligible for accelerated examination and the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Information about the current accelerated examination procedure may be obtained from the USPTO website at http://www.uspto.gov/web/patents/accelerated/.

Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

Copied from 11946376 on 02/05/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,376	11/30/2007	Pradip Bose	YOR920070446US1 (21454)	2628

48233 7590 06/18/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
CHIANG, JACK	

ART UNIT	PAPER NUMBER
2825	

MAIL DATE	DELIVERY MODE
06/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Suite 300
Garden City, New York 11530

In re Application of: Pradip Bose et al.
Serial No.: 11/948,376
Filed: November 30, 2007
Title: METHOD AND ON-CHIP CONTROL APPARATUS FOR ENHANCING PROCESS RELIABILITY AND PROCESS VARIABILITY THROUGH 3D INTEGRATION

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision in response to the submission denominated "Request for Reconsideration of Decision on Petition to Make Special for New Application under 37 CFR 1.102" received on February 25, 2008. The paper is being treated as a petition under 37 CFR 1.181 to review the decision mailed January 29, 2008, denying accelerated examination status for the instant application. The signatory of the January 29, 2008 decision denying accelerated examination status possessed delegated authority to act on behalf of the Technology Center Director in such matters. Therefore, the petition received on January 29, 2008 is a request for review of a decision of a Technology Center Director. Accordingly, the Office of the Deputy Commissioner for Patent Examination Policy has decision-making authority over Applicant's petition. M.P.E.P. § 1002.02(b)(15).

The petition under 37 CFR 1.181 to reconsider the denial of accelerated examination status for application No. 11/948,376 and to grant such status under 37 CFR 1.102 is **DENIED**.

Background

The above-identified application was filed under 35 U.S.C. § 111(a) on November 30, 2007 accompanied by a petition under 37 CFR 1.102(d) to make the application special under the accelerated examination program. See 71 Fed. Reg. 36,323.

On December 13, 2007, the United States Patent and Trademark Office (USPTO) issued a Notice to File Corrected Application Papers. The Notice required Applicant to submit replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). The notice identified the deficiency in the drawings in that the drawings submitted to the Office (specific reference was made to figure 2) are illegible after scanning.

On January 17, 2008, Applicant responded to the notice to file corrected application papers by submitting new set of drawing figures.

On January 29, 2008, a decision was mailed by the USPTO denying Applicant's petition to make special. The decision outlined the requirements for accelerated examination pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" (71 Fed Reg. 36323), and cited the existence of an accurate and properly issued "Notice to File Missing Parts of Non-Provisional Application" as the justification for denying special examination status to the application.

On February 25, 2008, Applicant submitted the instant paper, which is being treated as a Petition under 37 CFR 1.181, requesting reconsideration of the January 9, 2008 denial of the petition to make special.

Applicable Regulations and Notice Sections

37 CFR § 1.84 Standards for drawings.

> (l) Character of lines, numbers, and letters. All drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. **The weight of all lines and letters must be heavy enough to permit adequate reproduction**. This requirement applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. Lines and strokes of different thicknesses may be used in the same drawing where different thicknesses have a different meaning.

37 CFR § 1.102 Advancement of Examination

> (a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination", 71 Fed. Reg. 36,323 (Jun. 26, 2006)

The relevant portions of the Accelerated Examination Notice are as follows:

> *Part I. Requirements for Petitions to Make Special under Accelerated Examination:* A new application may be granted accelerated examination status under the following conditions:

(4) The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination.

...

Part VIII: More Information:

...

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

...

(F) Drawings in compliance with 37 CFR 1.84;

...

The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g. a notice of incomplete application, a notice to file missing parts, **a notice to file corrected application papers**, notice of omitted items, or notice of informal application). ***The opportunity to perfect a petition (Part II) does not apply to applications that are not in condition for examination of filing.*** (71 Fed. Reg. 36,323 at 36,327)

Decision

Petitioner requests reconsideration of the denial of the petition based upon petitioner's assertions that (a) the Notice only required drawings to be somewhat clearer and that (b) the originally submitted drawings were "deemed by Applicants to be adequate for examination". Applicant requests reconsideration of the USPTO denial to have the current application prosecuted as special accelerated examination.

Petitioner's arguments that the submitted drawings were of sufficient quality to permit immediate examination of the application and that the requirement to correct the drawings did not render the application "incomplete" are without persuasive force in that petitioner was requesting, via petition, the status of accelerated examination. Under this program, the application must be, "*at the time of filing*" complete under 37 CFR 1.51 and in "*condition for examination*". These requirements include submission of drawings fully in compliance with 37 CFR 1.84. As the goal of this program is to advance prosecution of an application to final disposition, as defined by the Office, within 12 months from the date of filing, all applications must meet the requirements of the policy in order to meet the reduced examination time goals. The existence of a "Notice to File Corrected Application Papers" was the evidentiary basis for concluding the application was not in condition for examination. The issuance of the "Notice to File Corrected Application Papers" was proper. Petitioner has responded and corrected the errors. Therefore, Petitioner implicitly acknowledged that the application was not in condition for examination at the time of filing.

Petitioner specifically contends that the drawings "were adequate for examination" and that the Notice merely required the drawings to be "somewhat clearer". A review of the drawing

applicant submitted clearly indicates that the quality of Figure 2 is not adequate to meet the reproducibility standards for publication. In response to the Notice, Applicant submitted corrected drawings, in which, *inter alia*, the contrast in Figure 2 was significantly altered thereby enhancing its readability.[1] Applicant did not resubmit the originals (or provide paper copies of the originals) with argument as to their adequacy. Applicant must, when filing electronically, prepare drawings which will comply with the provisions of 37 CFR 1.84 when so filed.

Petitioner is reminded that the requirements include submission of drawings fully in compliance with 37 CFR 1.84 (as stated above). Each applicant must meet the requirements of the policy.

It is further noted that petitions to make special based upon applicant's health or age, as outlined in MPEP 708.02 III and IV respectively, are available to petitioner should the requirements of those programs be met.

CONCLUSION

For the above-stated reasons, the petition under 37 CFR 1.181 to reconsider a dismissal to make special application No. 11/948,376 is **DENIED**. Therefore, the USPTO will examine the above-identified application in accordance with standard examination procedures.

This decision may be viewed as final agency action. See MPEP 1002.02.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Telephone inquiries related to this decision should be directed to Pinchus M. Laufer, Legal Advisor at (571) 272-7726.

Robert A. Clarke

Robert A. Clarke, Director
Office of Patent Legal Administration
Office of the Deputy Commissioner for Patent Examination Policy

Enc: 2 Sheets of Drawings

[1] Copies of the originally submitted and the replacement figure 2 are attached to this decision.

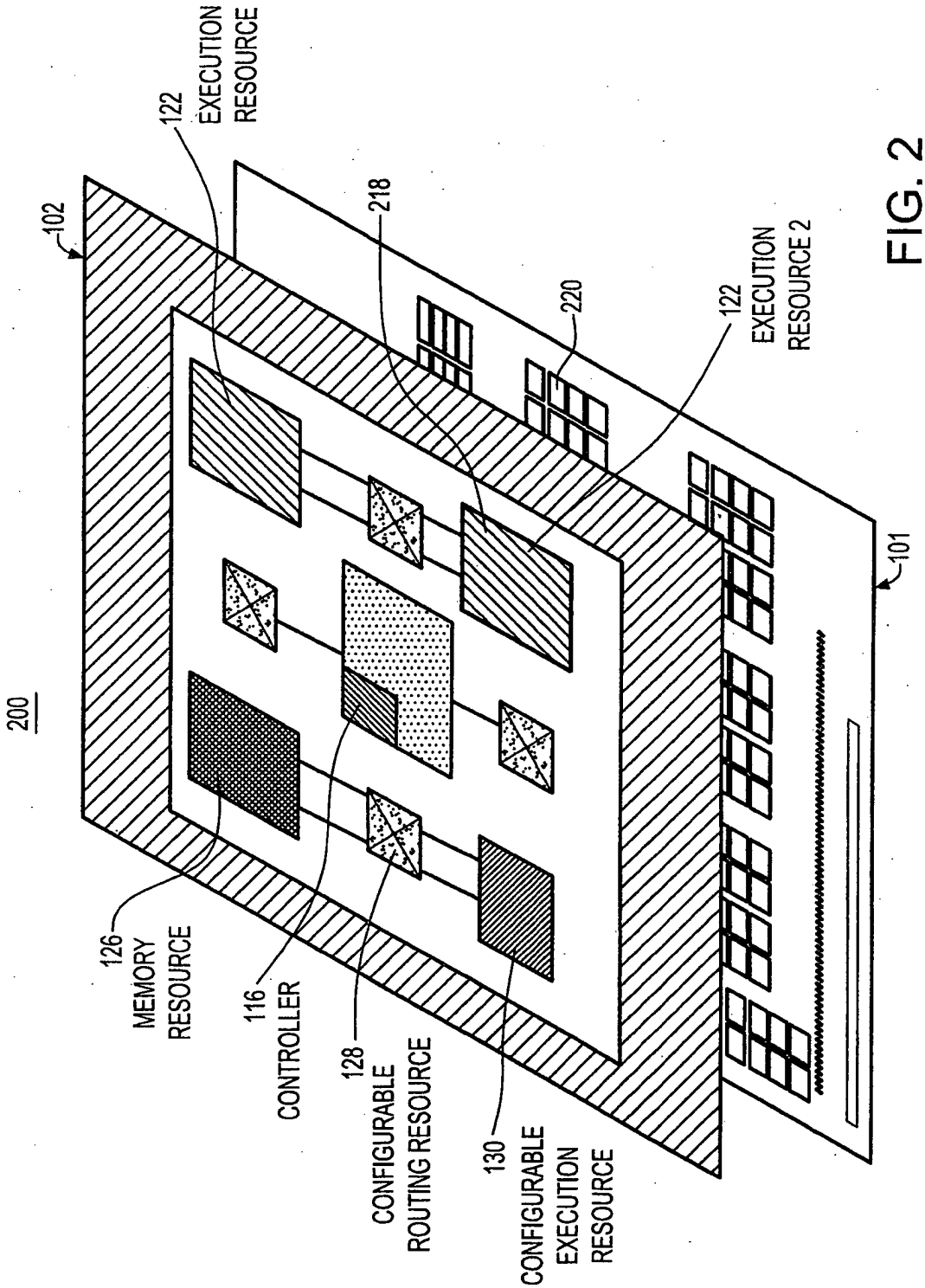
200
102
122
EXECUTION
RESOURCE
218
220
122
EXECUTION
RESOURCE 2
101
126
MEMORY
RESOURCE
116
CONTROLLER
128
CONFIGURABLE
ROUTING RESOURCE
130
CONFIGURABLE
EXECUTION
RESOURCE

FIG. 2

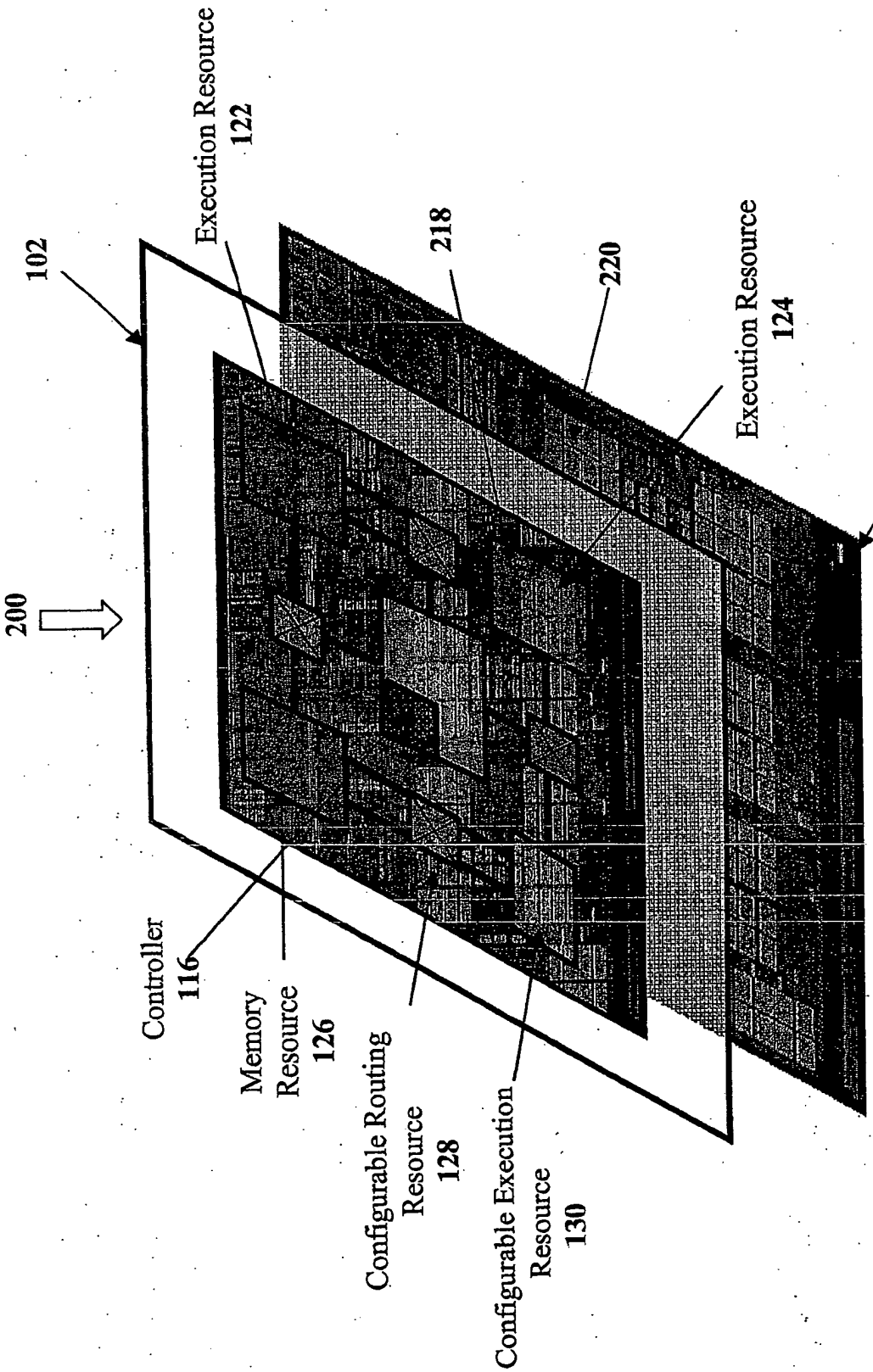
200
102
Execution Resource
122
218
220
Execution Resource
124
101
Controller
116
Memory
Resource
126
Configurable Routing
Resource
128
Configurable Execution
Resource
130

Figure 2

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Alexandria, VA 22313-1450
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PROSKAUER ROSE LLP
One International Place
Boston MA 02110

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of :
MURATOGLU, Orhun K. et al. :
Application No. 11/948,393 : DECISION ON PETITION
Filed: November 30, 2007 : TO WITHDRAW
Attorney Docket No. **00952-8178** : FROM RECORD
:

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 25, 2010

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request. Our records show Rbs Citizens, N.A. Successor By Merger With Citizens Bank Of Massachusetts as the Assignee.

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: **MASSACHUSETTS GENERAL HOSPITAL**
THE GENERAL HOSPITAL CORPORATION
PERKINS COLE LLP
607 FOURTEENTH STREET, NW
WASHINGTON, DC 20005

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,394	11/30/2007	Kazuhiko Horino	072575	2659

7590 07/17/2009

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER	
MALDONADO, JULIO J	

ART UNIT	PAPER NUMBER
2823	

MAIL DATE	DELIVERY MODE
07/17/2009	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:
07/17/2009 0030072356

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1053

Adjustment date: 07/17/2009 NFARMER
12/03/2007 INTEFSW 00001312 11948394
02 FC:1111 -510.00 OP

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OSLER, HOSKIN & HARCOURT LLP (BRP)
2100 - 1000 DE LA GAUCHETIERE ST. WEST
MONTREAL, QC H3B4W5
CANADA

Mail Date: 04/20/2010

Applicant	: Richard Simard	: DECISION ON REQUEST FOR
Patent Number	: 7617789	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/948,434	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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The H.T. Than Law Group
Waterfront Center Suite 560
1010 Wisconsin Avenue, NW
Washington, DC 20007

COPY MAILED

JUL 18 2008

In re Application of :
Dimitri Peter Zafiroglu :
Application No. 11/948,437 : DECISION ON PETITION
Filed: November 30, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. DZS-020 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 11, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by attorney of record on behalf of the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 1791 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OCT 16 2009

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

In re Patent No. 7,513,703 :
Application No. 11/948,460 :
Filed: November 30, 2007 : ON PETITION
Issued: April 7, 2009 :
Attorney Docket No. 02975.000422. :

This is a decision on the petition under 37 CFR 1.183 filed July 6, 2009, which is being treated as a petition under 37 CFR 3.81(b) to accept the correction of the assignee on the front page of the above-identified patent. This is also a decision on the petition under 37 CFR 1.182 to reprint the assignee's name on the front page of the Letters Patent, filed July 7, 2009.

The petition under 37 CFR 3.81(b) to correct the assignee's name is **GRANTED**.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

In view of the above, and since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

However the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee

3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

The $400.00 petition fee will be charged to petitioner's deposit account as authorized. Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignee's name.

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

This matter is being referred to the Certificates of Correction Branch for appropriate processing of a certificate of correction to be placed in the archives of the USPTO and for reprinting the front page of the original Letters Patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Telephone inquiries regarding the reprinting of the front page of the Letters Patent should be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 273-9756)

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Kevin T. Chan	: DECISION ON REQUEST FOR
Patent Number	: 7599447	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/948,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **17** 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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Alexandria, VA 22313-1450
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APR 16 2010

OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

In re Application of	:	
Russell D. IDE	:	
Application No. 11/948,552	:	DECISION ON PETITION
Filed: November 30, 2007	:	TO WITHDRAW
Attorney Docket No. 68-1003 CER0024-US-CIP	:	FROM RECORD
	:	

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 08, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Paul, Hastings, Janofsky & Walker LLP has been revoked by the assignee of the patent application on March 02, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PLUMSEA LAW GROUP, LLC**
10411 MOTOR CITY DRIVE
SUITE 320
BETHESDA MD 20817

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

Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter J. Legg	:	
Application No. 11/948,647	:	DECISION ON PETITION
Filed: November 30, 2007	:	TO WITHDRAW
Attorney Docket No. 9010/96662 (07-0012)	:	FROM RECORD
	:	

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, 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 Morrison & Foerster, LLP has been revoked by the assignee of the patent application on September 11, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed 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: Fitch, Even, Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago, IL 60603-3406

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OSLER, HOSKIN & HARCOURT LLP (BRP)
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MONTREAL, QC H3B4W5
CANADA

Mail Date: 04/20/2010

Applicant	: Ben BALAJI	: DECISION ON REQUEST FOR
Patent Number	: 7641527	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/948,651	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **62** 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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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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MAR 01 2010

In re Application of
Alan Harrison Keefer
Application No. 11/948,733
Filed: November 30, 2007
Attorney Docket No. **GUIDP009**

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 23, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request is not approved because the practitioner(s) lacks item (2) certifications mention above that is required under 37 CFR 10.40. It is also noted, that the request failed to list a correspondence address for either the first named inventor or the assignee of record.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Atsushi Yamamoto	: DECISION ON REQUEST FOR
Patent Number	: 7605522	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/948,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WORKMAN NYDEGGER/Leica
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/20/2010

Applicant	: Alastair GREEN	: DECISION ON REQUEST FOR
Patent Number	: 7647199	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/948,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,761	11/30/2007	David Goren	IL920070055US1 (21395)	3352

48233 7590 03/21/2008

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EXAMINER	
ART UNIT	PAPER NUMBER
2123	

MAIL DATE	DELIVERY MODE
03/21/2008	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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In re Application of:
David Goren et al.
Serial No.: 11/948,761
Filed: November 30, 2007
Docket Number: IL920070055US1 (21395)
Title: METHOD AND SYSTEM FOR CALCULATING HIGH FREQUENCY LIMIT CAPACITANCE AND INDUCTANCE FOR COPLANAR ON-CHIP STRUCTURE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102

This is a decision on the petition filed on November 30, 2007 to make the above-identified application special for accelerated examination procedure in accordance with 37 C.F.R. § 1.102(c)(2).

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to M.P.E.P. §708.02(a) and to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to M.P.E.P. §812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an

election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, the application retains its special status after the filing of an RCE.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1606.

Hien H. Phan, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,762	11/30/2007	Viente Suarez Rosselli	GB920070112US1 (21548)	3353

48233 7590 03/05/2008

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EXAMINER	
CALDWELL, ANDREW T	

ART UNIT	PAPER NUMBER
2142	

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.

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In re Application of:
Viente Suarez ROSSELLI, et al.
Serial No.: 11/948,762
Filed: November 30, 2007
Docket: GB920070112US1 (21548)
Title: HOW TO ENABLE "OUT OF BOX" MESSAGES TRACKING IN MESSAGING 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 Nov 30, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1 to II.4 above are considered to have been met. However, the petition fails to comply with conditions II.5 and II.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding items II.5.2-5.3 above, the pre-examination search must be directed to the (instant) claimed invention and encompass all of the features of the claims, giving the claim the broadest reasonable interpretation. The search logic does not seems to include the inventive concept or features included in the in the claim language that covers the subject matter of the claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider individual features by themselves and combinations of features. The search should cover the **broadest scope** encompassed by the claims **as well as** claims of **narrow and intermediate breadth**.

Specifically, the search logic for **all database services** does not include the relevant search terms for claimed features such as "message system managing queues of messages", "tracking module ... specifying status data", and "receiving status data from message queues into tracking queue" of claim 1; "message between application modules at each step of the transaction", "determining properties of status data for extraction", "sending the status data to a processing module" and "evaluating the status data; and communicating the status data of the message" of claim 2. It is noted that these features have been identified as key features in the Detailed Explanation of Patentability by applicant to distinguishing the instant claimed subject matter from the cited prior art references deemed most closely related to the claimed invention in the Examination Support Document. Since the search logic does not include the relevant search terms mentioned above, the alleged patentable features and concept appear to have not been searched. The Petitioner is advised to review the all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the preexamination search covers these concepts, and update the search and/or provide any clarification for the deficiencies identified above if deemed necessary.

With respect to the USPTO EAST database service search, the Petitioner should also include related words or phrase such as **plurals** and **synonyms** to the above search terms. In this case, term such as "track" can be further covered with (monitor$3 identif$3 survey$3 record$3 log$4 determin$3); the term "queues" can be covered with (FIFO, buffer$3 link$1list); and the term "status" can be covered with (condition state standing priority order rank).

With respect to the Database searches for Database services of Dialog Pro, AMC Portal, IEEE Xplore, and Citseer Databse database services, the search logic does not appear to contain related words similar to the search logic of USPTO EAST Database service. Furthermore, the search logic for these database services should also include the plurals and synonyms identified as deficient in the EAST search above.

Based upon the claimed subject matter of the instant application, a search in the following classes and subclasses is recommended in order to provide full coverage of where the most pertinent references are most likely to be found: **class 709 subclass 201** (distributed data processing) under which the application is classified, subclass 225 (Computer Network Access Regulating), 240 (Prioritized Data Routing), and 242(Routing Data Updating); **class 710** subclass 36 (Input/Output Access Regulation), 40-41 (Dynamic Access Prioritization), 52 (Input/Output Buffering) and 55 (Contents Validation). The additional search area was confirmed by Primary examiners in the pertinent art area (Class 709 and 710).

Due to the deficiencies identified above, Petitioner should review the search document and update the search to rectify the deficiencies and/or provide any clarification if deemed necessary.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.3 above, the Accelerated Examination Support Document (AESD) requires a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). The petitioner's "Statement of Patentability" is not clear and consistent as to how each of the claims is patentable over the references cited.

Specifically, in the discussion of claim 1, petitioner's statement in section 9(C) of the Accelerated Examination Support Document (AESD), petitioner states that all of the references fail to teach or suggest the following: the messaging system managing queues of messages being communicated between the computers; the tracking module having the messaging computer program; a tracking computer program embodied in the computer readable medium for specifying status data for retrieval from the messaging queues; and receiving the status data from the messaging queues into a tracking queue. Additionally, in the discussion of claim 2, the petitioner indicates in section 9(C) of the AESD that all of the references identified above fail to at least teach or suggest the following: messaging between the application modules at each step of the business transaction; queuing data from each message; determining properties of status data for extraction from the message queues; extracting status data from the message queues having the determined properties; sending the status data to a processing module; evaluating the status data; and communicating the status data of the messages, of claim 2.

However, as for claim 1, the petitioner appears to indicate in section 9(B) of the AESD that at least Eldridge teaches the limitation "a message system for managing messages queues (page 4), "tracking module ...for specifying status data" (last paragraph bridging pages 4 and 5 of the AESD); and "queuing status data" and "communicating (hence receiving) the status data" (last two paragraphs of page 5 of the AESD). The petitioner also appears to indicate that Sahai and Gao disclose the "tracking module specifying status data for retrieval from messages" (page 6 and 8 respectively). As for claim 2, the petitioner appears to indicates in section 9(B) of the AESD at least Sahai teaches "message between application modules" (page 6), Eldridge and Gao teach "queuing data from each message" (pages 5 and 9 respectively), Sahai and Gao teach "determining the property of status data" and "evaluating the status data" (pages 6 and 8 respectively), Gao teaches "extracting status data" (page 8); and Eldridge, Sahai and Gao teach "sending the status data" and "communicating the status data" (pages 5, 7, and 9 respectively).

The petitioner asserts that the claims are patentably distinguished over the references alone or in combination because "all of the references fail to at least" teach or suggest the list of the limitations. By identifying all limitations as those limitations that the reference(s) do not show or suggest, the petition fails to discuss the claimed limitations with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). That is, the petition does not specifically properly compare/contrast the claimed invention with respect to the relevant teachings in the prior art in the identified references. A general allegation that "all of the references fail to at least teach ... and therefore patentably distinguish over each of the references alone or in combination" does not comply with the requirements. Petitioner fails clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. For these reasons, the petition does not meet the requirement of MPEP § 708.02.

Petitioner is requested to clearly point out claim limitations not taught by any of the references and how the limitations are patentably distinguished over the references cited alone or in combination.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the ***concise statement*** of the utility must be of the invention as defined in ***each of the independent claims***.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and items 6.5-6.6 above, the Accelerated Examination Support Document is required to provide a showing of where ***each limitation of each claim*** finds support under 35 USC 112, first paragraph, in the written description of the specification. The petition fails to provide support for each claim (***claim by claim***) and to identify each feature (***separately identified***) of each claim with corresponding support in the cited portions of the instant application; rather the petitioner recites the entire FIGURE and paragraphs [0010-0015] as teaching an embodiment of the invention referring to the embodiment in the FIGURE.

The Petitioner should review the applications based on which priority is claimed, point out any differences and show the exact locations (e.g. page no. or paragraph no.) within the specification providing support under 35 USC, first paragraph ***for each limitation*** of ***each claim*** of the instant application.

DECISION

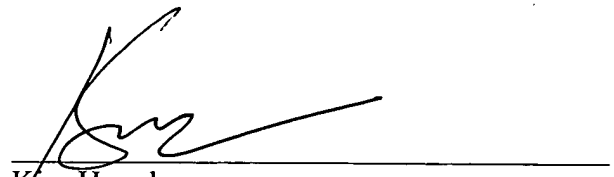
For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

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 the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.



Kim Huynh,
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,762	11/30/2007	Viente Suarez Rosselli	GB920070112US1 (21548)	3353

48233 7590 06/03/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER	
LUU, LE HIEN	

ART UNIT	PAPER NUMBER
2141	

MAIL DATE	DELIVERY MODE
06/03/2008	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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
Viente Suarez ROSSELLI, et al.
Serial No.: 11/948,762
Filed: November 30, 2007
Docket: GB920070112US1 (21548)
Title: HOW TO ENABLE "OUT OF BOX" MESSAGES TRACKING IN MESSAGING SYSTEM

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on April 07, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on Nov 30, 2007 was dismissed in the decision mailed on Mar 05, 2008.

The petitioner provided an updated search was performed; however, no new Information Disclosure Statement was filed. It is of the understanding that no new references were found as the result of the updated search.

MPEP 719.05 states that a *classification search* is defined as a complete search of all the documents in a particular subclass, and it is not limited by any text query or other means. The search document does not indicate the class/subclass search was not limited by any search query; therefore, it is assumed t hat the classification search was performed in accordance with MPEP 719.05.

Regarding the Utility Statement, it is understood that the utility for claim 1 is to provide "a tracking module for specifying status data for retrieval from messaging queues related to a business transaction" and the utility for claim 2 is to provide the method steps of using the tracking module for tracking, extracting and evaluating status data from the message queues as pertaining to the business transaction.

As such, the renewed petition adequately addresses the support for the identification of claims limitations disclosed by the references and showing of where claim limitations finds support in the specification.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated

accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

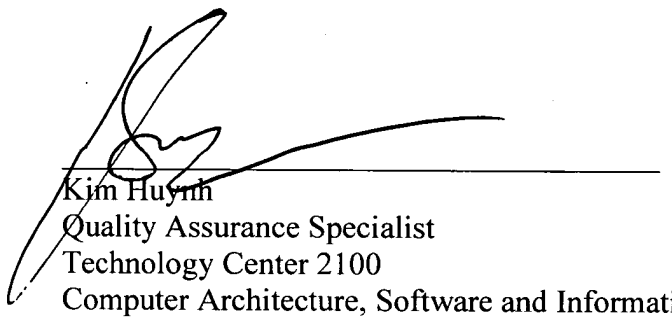
10. Final Disposition:

The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application. In addition, Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.



Kim Huynh
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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201 INDUSTRIAL ROAD
SAN CARLOS CA 94070

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OFFICE OF PETITIONS

In re Application of :
Zhao, et al. :
Application No. 11/948,767 : ON PETITION
Filed: November 30, 2007 :
Attorney Docket No.: 41714-8020.US00 :

This is a decision on the "Petition for Date of Deposit: Reliance Upon Incorporation by Reference under 37 CFR 1.57" filed October 14, 2008.

The petition is **dismissed**.

The application was filed on November 30, 2007. On August 14, 2008, the Office of Patent Application Processing mailed a Notice of Omitted Items of Non-provisional Application ("Notice") stating that the application had been accorded a filing date of November 30, 2007, but that Figures 18-26 as described in the specification, appeared to have been omitted. The notice allowed a non-extendable period for reply of two-months from its mailing date.

In response, on October 14, 2008, applicant filed the instant petition along with a copy of Figures 18-26. Petitioner explains that the preliminary amendment filed February 15, 2008, contained a priority claim under 37 CFR 1.78 to provisional application 61/330,163 which contained Figures 18-26.

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. The petition is dismissed, accordingly.

The petition fee will not be refunded as this petition was necessitated by the applicant's filing error, rather than an error on the part of the Office.

The application is being directed to the Office of Patent Application Processing for further review with a filing date of November 30, 2007, and indication that Figures 18-26 were not part of the original disclosure. Upon assignment to the Technology Center GAU 1615, the examiner assigned to this application will review the preliminary amendment filed February 15, 2008, and determine whether Figures 18-26 are new matter.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Nurith KURN et al. :
Application No. 11/948,784 : DECISION ON PETITION
Filed: November 30, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **25115-712.401** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 30, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Nurith Kurn, 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 Patent Application Processing.

This application is being referred to the Office of Patent Application Processing. This application will be accorded "special" status when pre-examination processing is done.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Roylance Abrams Berdo & Goodman)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of :
Walters, et al. :
Application No. 11/948,804 :
Filed: November 30, 2007 :
Attorney Docket No. P-7496 :
For: METHOD AND APPARATUS FOR DELIVERING A THERAPEUTIC SUBSTANCE THROUGH AN INJECTION PORT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed December 20, 2007, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on February 21, 2008. A Notice of Abandonment was mailed on September 3, 2008.

Applicants have submitted a proper reply to the December 20, 2007 Notice in the form of the basic filing fee, search fee, examination fee, surcharge, additional claim fee, and executed declaration, an acceptable statement of the unintentional nature of the delay in responding to the December 20, 2007 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: MARCUS R. MICKNEY
1300 19TH STREET, NW, SUITE 600
WASHINGTON, D.C. 20036

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 06/07/2010

Applicant	: Benjamin S. Wong	: DECISION ON REQUEST FOR
Patent Number	: 7630230	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/948,812	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 2800
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of :
David H. Jones et al. :
Application No. 11/948,821 : DECISION ON PETITION
Filed: November 30, 2007 :
Attorney Docket No. 83571.002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath or Declaration and Surcharge fee (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ABSOLUTE TECHNOLOGY LAW GROUP LLC
135 W. WELLS ST.
SUITE 518
MILWAUKEE WI 53203

In re Application of	:	
SUNDHARADAS, Renjit	:	
Application No. 11/948,829	:	DECISION ON PETITION
Filed: November 30, 2007	:	TO WITHDRAW
Attorney Docket No. **SUNDHARADAS-NONP-1107**	:	FROM RECORD

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 31, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to ABSOLUTE TECHNOLOGY LAW GROUP LLC was filed by the applicant of the patent application on April 08, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,849	11/30/2007	Young-Hee Kim	FIS920070322US1 (21480)	3543

45600 7590 02/08/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
Suite 300
GARDEN CITY, NY 11530

EXAMINER	
ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
02/08/2008	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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

FEB -8 2008

In re Application of:
KIM *et al.*
Serial No.: 11/948,849
Filed: November 30, 2007
Docket: **FIS920070322US1 (21480)**
Title: **MASKLESS STRESS MEMORIZATION TECHNIQUE FOR CMOS DEVICES**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 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 GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

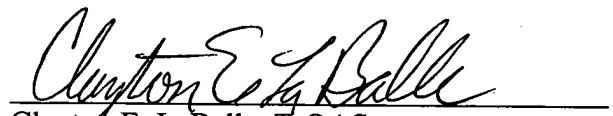
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1594.



Clayton E. LaBalle, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sachnoff & Weaver, LTD.
10 South Wacker Drive
Chicago, IL 60606-7507

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael John Stengel, et al.	:	
Application No. 11/948,855	:	DECISION ON PETITION
Filed: November 30, 2007	:	TO WITHDRAW
Attorney Docket No. 324635.00032	:	FROM RECORD
	:	

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 23, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Sachnoff & Weaver, LTD. has been revoked by the assignee of the patent application on May 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Howard B. Rockman**
1 S 376 Summit Avenue, Court C
Oakbrook Terrace, IL 60181

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FOUNTAINHEAD LAW GROUP, PC
900 LAFAYETTE STREET
SUITE 509
SANTA CLARA CA 95050

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MAR 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Dunlap et al.	:	
Application No. 11/948,884	:	ON PETITION
Filed: November 30, 2007	:	
Attorney Docket No. 000050-000100US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (1). The Office acknowledges receipt of the Oath/Declaration and the late surcharge. However, the Notice to File Missing Parts of Nonprovisional Application also required submission of replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d).

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

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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FOUNTAINHEAD LAW GROUP, PC
900 LAFAYETTE STREET
SUITE 200
SANTA CLARA CA 95050

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JUL 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Dunlap et al.	:	
Application No. 11/948,884	:	ON PETITION
Filed: November 30, 2007	:	
Attorney Docket No. 000050-000100US	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed March 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied replacement drawings as required by the Notice to File Missing Parts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing. Thereafter, this application will be referred to Technology Center AU 2161 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/948,894	11/30/2007	Roland Jurgen Dorr	1569-003	3638

32905 7590 07/09/2010
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
KRUSE, DAVID H	

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
07/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JondleOA@jondlelaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL 0 9 2010

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Roland Jurgen Dorr
Serial No.: 11/948,894
Filed: November 30, 2007
Attorney Docket No.: **1569-003**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed June 28, 2010, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on June 28, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Alexandria, VA 22313-1450
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Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Suite 300
Garden City, NY 11530

DEC 28 2007

In re Application of:
Robert A. Groves
Serial No.: 11/948,898
Filed: November 30, 2007
Title: AREA EFFICIENT, DIFFERENTIAL T-COIL IMPEDANCE-MATCHING CIRCUIT FOR HIGH SPEED COMMUNICATIONS APPLICATIONS
Attorney Docket No.: FIS920070167US1 (21075)

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the petition filed on November 30, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.
3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview;

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner; and

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; and

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists; and

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

All of the conditions of I. 1-4 and II. 1-5 above are considered to have been met. However, the petition fails to comply with the all the conditions set forth in II. 6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of II. 6, the examination support document is insufficient in that it fails to provide a detailed explanation of how each independent claim is patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c), as set forth in condition II. 6.3 above.

37 CFR 1.111(b) states that "the reply must present arguments pointing out the specific distinctions believed to render the claims . . . patentable over the . . . references." It further states that "a general allegation that the claims define a patentable invention without pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR 1.111(c) states "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Applicant's detailed explanation of how the claim is patentable over the references basically just states that the references fail to or suggest and then provides a copy of the claim. It does not point out the specific distinctions as noted in 37 CFR 1.111(b) and does not clearly point out the patentable novelty as noted in 37 CFR 1.111(c).

As indicated in 37 CFR 1.111(b), applicant's general allegation that none of the cited references, taken alone or in combination, disclose, teach or suggest the given claim language is insufficient to satisfy the requirements of 37 CFR 1.111(b). Besides not satisfying the specificity requirements of 37 CFR 1.111(b) and (c), there is also no indication that applicant considered the references taken in combination. Applicant has not indicated how the language of the claim patentably distinguishes it from the combination of the references, i.e., the state of the art disclosed by the references.

DECISION

For the above-stated reason, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Edward Westin at (571) 272-1638.

/Edward Westin/

Edward Westin, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Suite 300
Garden City, NY 11530

MAR 26 2008

In re Application of:
Robert A. Groves
Serial No.: 11/948,898
Filed: November 30, 2007
Title: AREA EFFICIENT, DIFFERENTIAL T-COIL IMPEDANCE-MATCHING CIRCUIT FOR HIGH SPEED COMMUNICATIONS APPLICATIONS
Attorney Docket No.: FIS920070167US1 (21075)

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

This is a decision on the renewed petition filed on January 28, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The renewed petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
   If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an

interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1638.

Edward Westin

Edward Westin, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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AUG 2 5 2008

In re Application of
Wilson, et al.
Application No. 11/948,914
Filed: November 30, 2007
Attorney Docket No. 7758-0289

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 8, 2008.

The petition is **DISMISSED**.

Rule 47 applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (2) set forth above.

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 post office address is the same. Given the fact that Mr. Wilson no longer works at QinetiQ Limited, 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 inventor must execute a new declaration that lists the most recent home address or mailing address for Mr. Wilson. MPEP 605.03

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Mr. Wilson is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Wilson, et al.	:	DECISION ACCORDING STATUS
Application No. 11/948,914	:	UNDER 37 CFR 1.47(a)
Filed: November 30, 2007	:	
Attorney Docket No. 7758-0289	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 17, 2008.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Christopher Wilson, has constructively refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to Technology Center AU 2872 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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CHRISTOPHER WILSON
ALPORT HOUSE
ALPORT ROAD
WHITCHURCH
SHROPSHIRE, SY131NR
UNITED KINGDOM

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SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of
Wilson, et al.
Application No. 11/948,914
Filed: November 30, 2007
Attorney Docket No. 7758-0289

LETTER

Dear Mr. Wilson:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE CA 95129

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Liu, et al.	:	
Application No. 11/948,934	:	DECISION ACCORDING STATUS
Filed: November 30, 2007	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. PALM.P1037	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 19, 2008.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Rule 47 applicant has demonstrated that a copy of the application papers was forwarded to the last known address of inventor Lee on April 3, 2008. However, as of the date of the petition, no executed declaration had been received.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES LEE
1516 VISTA CLUB CIRCLE #103
SANTA CLARA CA 95054

COPY MAILED

JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Eric Liu, Sagar Savant, Peter Sobczak, :
Charles Lee, Peter Skillman. :
Application No. 11/948,934 :
Filed: November 30, 2007 :
Title: Computing Device That Detects :
Hand Presence In Order To Automate The :
Transition Of States

LETTER

Dear Mr. Lee:

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

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.
11/948,941	11/30/2007	Jin-man Jeoung	60115/S1187	3744

7590 07/02/2010

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
RAABE, CHRISTOPHER M	

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
07/02/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

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: E.J. ASBURY III
TAYLOR BUSCH, LLP
1600 PARKWOOD CIRCLE
SUITE 200
ATLANTA GA 30339

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Andrew Powell, et al. :
Application No. 11/948,995 : DECISION ON PETITION
Filed: November 30, 2007 :
Attorney Docket No. P008 P001U1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed December 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 21, 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 reply, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred back to the Office of Patent Application Papers for pre-examination processing of the reply received November 5, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED
FROM DIRECTOR'S OFFICE

JAN 09 2008

TECHNOLOGY CENTER 3600

Bo-Yang Lin
628 Pine Valley
Richardson, TX 75081

In re application of
Bo-Yang Lin
Application No. 11/949,032
Filed: December 22, 2007
For: TRASH BAG RETAINER

DECISION ON PETITION
TO MAKE SPECIAL FOR
NEW APPLICATION
UNDER 37 CFR 1.102

This is a decision on the petition filed on December 1, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED.**

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 I.3, above.

The specification includes a Brief Description of the Drawings; however, no drawings were deposited at the time of filing. Thus precluding the application from being examined at the time of filing. Because the application was filed without drawings, the application is considered to be incomplete under 37 CFR 1.51 as evidenced by the Notice of Incomplete Application dated December 19, 2007.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure. Given the above failure of filing a complete application the petition has not been further reviewed on the merits.

DECISION

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn. Further petitions for accelerated examination in this application will not be entertained.

Any inquiry regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TL/tl: 01/07/08

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.
11/949,032	12/22/2007	Bo-Yang Lin		3920

75719 7590 02/29/2008

BO-YANG LIN
628 PINE VALLEY
RICHARDSON, TX 75081

EXAMINER	
ART UNIT	PAPER NUMBER
3782	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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

Bo-Yang Lin
628 Pine Valley
Richardson, Texas 75081

In re Application of: Bo-Yang Lin
Serial No.: 11/949,032
Initially Filed: December 1, 2007
Filing date: December 22, 2007
Title: TRASH BAG RETAINER

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision in response to the submission denominated "Supplemental Petition" received on January 15, 2008. The paper is being treated as a petition under 37 CFR 1.181 to review the decision mailed January 9, 2008, denying accelerated examination status for the instant application. The signatory of the January 9, 2008 decision denying accelerated examination status possessed delegated authority to act on behalf of the Technology Center Director in such matters. Therefore, the petition received on January 15, 2008 is a request for review of a decision of a Technology Center Director. Accordingly, the Office of the Deputy Commissioner for Patent Examination Policy has decision-making authority over Applicant's petition. M.P.E.P. § 1002.02(b)(15).

The petition under 37 CFR 1.181 to reconsider the denial of accelerated examination status for application No. 11/949,032 and to grant such status under 37 CFR 1.102 is **DENIED**.

Background

The above-identified application was filed under 35 U.S.C. § 111(a) on December 1, 2007 accompanied by a petition under 37 CFR 1.102(d) to make the application special under the accelerated examination program. See 71 Fed. Reg. 36,323.

On December 19, 2007, the United States Patent and Trademark Office (USPTO) issued a Notice of Incomplete Nonprovisional Application as the application was submitted without drawings. The Notice required Applicant to reconsider whether the drawings are necessary under 35 U.S.C. § 113 (first sentence).

On December 22, 2007, Applicant responded to the notice of incomplete nonprovisional application by submitting a set of drawings. Accordingly, the Office granted a filing date of December 22, 2007 to application NOP. 11/949,032.

On January 9, 2008, a decision was mailed by the USPTO denying Applicant's petition to make special. The decision outlined the requirements for accelerated examination pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" (71 Fed Reg. 36323), and cited the existence of an accurate and properly issued

"Notice of Incomplete Nonprovisional Application" as the justification for denying special examination status to the application.

On January 15, 2008, Applicant submitted the instant paper, which is being treated as a Petition under 37 CFR 1.181, requesting reconsideration of the January 9, 2008 denial of the petition to make special.

Applicable Regulations and Notice Sections

35 U.S.C. § 113 Drawings.

> The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Director may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

37 CFR § 1.102 Advancement of Examination

> (a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination", 71 Fed. Reg. 36,323 (Jun. 26, 2006)

The relevant portions of the Accelerated Examination Notice are as follows:

> *Part I. Requirements for Petitions to Make Special under Accelerated Examination:* A new application may be granted accelerated examination status under the following conditions:

(4) The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination.

...

Part VIII: More Information:

...

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

...

(F) Drawings in compliance with 37 CFR 1.84;

...

The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g. **a notice of incomplete application**, a notice to file missing parts, a notice to file corrected application papers, notice of omitted items, or notice of informal application). ***The opportunity to perfect a petition (Part II) does not apply to applications that are not in condition for examination of filing.*** (71 Fed. Reg. 36,323 at 36,327)

Decision

Petitioner requests reconsideration of the denial of the petition based upon the assertion that the Office erred in interpreting the phrase "complete at the time of filing" to require the application to be complete on the date of initial electronic deposit with the Office. Petitioner submits that the phrase, properly interpreted, requires that the application be complete at the time of granting of a filing date. In support of this view, petitioner refers to a document titled: "Filing for Accelerated Examination of a New Application" located on the Office's website at http://www.uspto.gov/web/patents/accelerated/ae_accelerated_examination_tutorial.pdf and asserts that this document clearly distinguishes "time of electronic filing" and "filing date of the application". Thus, petitioner contends, that because on the granted filing date - December 22, 2007 - the application was complete, the application is entitled to be treated under the accelerated examination procedures.

Petitioner's argument that the application is now proper for accelerated examination is in error. As a preliminary matter, the "tutorial" petitioner relies on is directed to the proper manner of coding documents for submission in EFS-Web. Furthermore, a review of the document does not reveal any indication that "time of filing" is to be interpreted other than as the date upon which the initial electronic filing is made in the Office. Finally, the notice "Change to Practice in Patent Applications to Make Special and for Accelerated Examination", which established the parameters of the program, specifically points out that receipt of a "Notice of Incomplete Nonprovisional Application" will result in dismissal of the petition without any opportunity to correct. Under this program, the application must be, "*at the time of filing*" complete under 37 CFR 1.51 and in "*condition for examination*". These requirements include submission of drawings fully in compliance with 37 CFR 1.84. As the goal of this program is to advance prosecution of an application to final disposition, as defined by the Office, within 12 months from the date of filing, all applications must meet the requirements of the policy in order to meet

the reduced examination time goals. The existence of a "Notice of Incomplete Nonprovisional Application" was the evidentiary basis for concluding the application was not in condition for examination. The issuance of the "Notice of Incomplete Nonprovisional Application" was proper. Petitioner has responded and corrected the errors. Therefore, Petitioner implicitly acknowledged that the application was not in condition for examination at the time of filing.

Petitioner is reminded that the requirements include submission of drawings fully in compliance with 37 CFR 1.84 (as stated above). Each applicant must meet the requirements of the policy.

It is further noted that petitions to make special based upon applicant's health or age, as outlined in MPEP 708.02 III and IV respectively, are available to petitioner should the requirements of those programs be met.

CONCLUSION

For the above-stated reasons, the petition under 37 CFR 1.181 to reconsider a dismissal to make special application No. 11/949,032 is **DENIED**. Therefore, the USPTO will examine the above-identified application in accordance with standard examination procedures.

This decision may be viewed as final agency action. See MPEP 1002.02.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Telephone inquiries related to this decision should be directed to Pinchus M. Laufer, Legal Advisor at (571) 272-7726.

Robert A. Clarke, Director
Office of Patent Legal Administration
Office of the Deputy Commissioner for Patent Examination Policy

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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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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JAN 15 2009

OFFICE OF PETITIONS

In re Application of :
Berthet, et al. :
Application No. 11/949,071 :
Filed: December 3, 2007 :
Attorney Docket No. B45260C1 :

ON PETITION

This is a decision on the "Response to Notice of Incomplete Reply and Petition for Date of Deposit" filed January 8, 2009. The petition will be treated pursuant to 37 CFR 1.182.

The petition is **granted**.

The subject application was filed on December 7, 2007. On August 14, 2008, a Notice to File Corrected Application Papers was mailed indicating that Figures 3 and 8 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. Petitioner filed a response on October 13, 2008. On November 14, 2008, a Notice of Incomplete Reply was mailed advising that the response of October 13, 2008, did not include Figures 3 and 8. The period for response to the Notice of Incomplete Reply remained as set forth in the Notice to File Corrected Application Papers. The instant petition was filed on January 8, 2009, wherein petitioner maintains that Figures 3 and 8 were filed on October 13, 2008. Petitioner further asserts that pursuant to 37 CFR 1.57, Figures 3 and 8, though not filed with the original application, should be included as part of the original disclosure because the figures are contained in application serial number 10/343,561to which application 11/949,071claims priority under 37 CFR 1.78.

A review of the application file reveals that Figures 3 and 8 were filed on October 13, 2008. Accordingly, the Notice of Incomplete Reply was issued in error; Figures 3 and 8 will be accorded a receipt date of October 13, 2008.

It is further noted that the specification, as filed, contains a priority claim to application 10/343,561, which applicant indicates contained Figures 3 and 8. 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 identify where the inadvertently omitted portion of the drawing can be found in the prior-filed application. Petitioner must, therefore, file an amendment under 37 CFR 1.57 to request entry of the omitted figures.

The application file is being forwarded to the Office of Patent Application processing with a filing date of December 3, 2007, including only the papers received on that date. Petitioner may file an amendment under 37 CFR 1.57 to request entry of Figures 3 and 8.

Telephone inquiries concerning this decision may 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
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

COPY MAILED
SEP 16 2008
OFFICE OF PETITIONS

In re Application of :
Jesper Lau et al. :
Application No. 11/949,075 : DECISION ON PETITION
Filed: December 3, 2007 : PURSUANT TO
Attorney Docket No.: 5576.230-US : 37 C.F.R. § 1.182
Title: GLUCAGON :
ANTAGONISTS/INVERSE AGONISTS :

This is a decision on the petition filed August 5, 2008, requesting that the above-identified application, including page 316 of the specification, be accorded a filing date of December 3, 2007, as part of the original disclosure.

The application was deposited on December 3, 2007. On February 14, 2008, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," (notice), indicating that a filing date had been accorded to this application, and that it appeared that page 316 of the specification had been omitted on filing. The notice set a two-month period for reply.

With this petition, Petitioner has submitted a substitute specification, the petition fee, and a four-month extension of time so as to make timely this response.

Petitioner has not asserted that page 316 of the specification was present on filing. The undersigned has reviewed the electronic file, and page 316 of the specification has been located - the majority of the page is blank, and it contains the

text "316" and "5576-WO, BShn." As such, it is clear that page 316 of the specification was present on filing.

Therefore, the application, including page 316 of the specification, was complete on filing and entitled to a filing date of December 3, 2007 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed February 14, 2007 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the $400.00 petition fee will be refunded to Petitioner's Deposit Account in Due Course.

The Office of Patent Application Processing (OPAP) will be made aware of this decision so that this application can receive further processing with a filing date of December 3, 2007, using the original application papers filed on that date, which includes page 316 of the specification.

The substitute specification that was filed concurrently with this petition will not be entered.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

SUMMA, ADDITON & ASHE, P.A.
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE NC 28277

MAILED

APR 0 1 2009

OFFICE OF PETITIONS

Applicant: Byon, et al.
Appl. No.: 11/949,114
Filing Date: December 3, 2007
Title: GREEN PHOTOSENSITIVE RESIN COMPOSITION AND COLOR FILTER PREPARED THEREFROM
Attorney Docket No.: 8893.005
Pub. No.: US 2008/0160432 A1
Pub. Date: July 3, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 5, 2008, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors in chemical formula 2, in the specification and in claim 4 wherein the subscript is misprinted.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the publication, wherein "CH_3" is misprinted as "CH_2" may be Office errors, but they are not material Office errors under 37 CFR 1.221. The errors in the specification and claim are not material Office errors under 37 CFR 1.221 because the quality of the text is poor and the symbols are small and faint. The text is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

[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).

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JAN 17 2008

TECHNOLOGY CENTER 3600

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Suite 300
Garden City, NY 11530

In re application of
David R. Bell et al.
Application No. 11/949,150
Filed: December 3, 2007
For: AUTONOMOUS DESTINATION DETERMINATION

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on December 3, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition fails to comply with conditions II.5.2 and II.6.3, above.

As to condition II.5.2, the petition lacks an indication of a preexamination search that encompasses all of the features of the claims. Specifically, there does not appear to be an adequate classification search. In addition to those areas searched, a proper classification search for this invention needs to include a search of 701/213 (where the application is classified) and 340/998, 990, 995.17, 995.19, 995.23, and 995.24; along with 342/357.01 and 357.06.

With respect to the required text search of the US Patents database, the search logic used by the applicant does not appear to encompass all the claimed limitations and thus may not have located all of the most pertinent art. Search logic encompassing the "broadest reasonable interpretation" of the claimed invention is required. The USPTO website has an example of the proper manner of performing and documenting a preexamination search for Accelerated Examination petitions at: http://www.uspto.gov/web/patents/accelerated/. Additionally, an example of additional search terms are provided below:

L1: Destination same (estimate$4 or approximat$4 or about) same match$4 same map
L2: (predetermine$4 or predefine$4)same (location or points or pattern or maneuver or landmark or turn$4)same (compare$4 or match$4)same (current same position)
L3: L1 and L2

The sample of search terms are not meant to be the sole search terms that can or should be employed in this application, but is meant solely as an example for applicant's assistance.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references taken separately, which also includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. Specifically, it appears that applicant's Detailed Explanation of Patentabilty indicates that limitiations in claims 1 and 2 are reasons for the claims being patentable over the prior art, when in applicant's Identification of Limitations Disclosed by References applicant has indicated that many of these same limitations were taught by the prior art of record. At least elements c), e), g), h), and i) of claim 1 as well as claim 2 appear to be guilty of this apparent contradiction. An explanation and clarification is required.

The USPTO website has an example of the proper manner of documenting limitations taught by cited art, and the manner of explaining claim patentability over the references, for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 1/15/08

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MAR 06 2008

TECHNOLOGY CENTER 3600

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Suite 300
Garden City, NY 11530

In re application of
David R. Bell et al.
Application No. 11/949,150
Filed: December 3, 2007
For: AUTONOMOUS DESTINATION DETERMINATION

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the renewed petition filed on February 15, 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 **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed to a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office.

In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

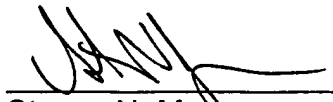
On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.



Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 3/6/08

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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MAR 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Eng et al.	:	DECISION ON PETITION
Application No. 11/949,161	:	TO WITHDRAW
Filed: December 3, 2007	:	FROM RECORD
Attorney Docket No. 665-007	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 13, 2010 and October 30, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Application of
Sigram Schindler

Application No. 11949173

Filed: December 3,2007

Attorney Docket No. 8096.053.NPUS01

:
:
: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 27-MAY-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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Fleit Gibbons Gutman Bongini & Bianco PL (Attorney for Applicant)
21355 East Dixie Highway
Suite 115
Miami, FL 33180

JUL 1 2008

In re Application of :
Nevin Jenkins :
Filed: December 3, 2007 : DECISION DISMISSING PETITION
Application No. 11/949,191 :
For: PERSONAL EMERGENCY :
COMMUNICATION SYSTEM :

This is a decision on the "Petition Under 37 CFR 1.292 For A Public Use Proceeding" filed March 3, 2008, requesting that public use proceedings be instituted.

The petition was accompanied by Appendixes 1-3 and the declarations of Mark Gottlieb, Sharon Gottlieb, and Warren Bosch, with exhibits. The petition included an authorization to charge the petition fee to petitioner's deposit account.

On March 18, 2008, applicant filed a response to the petition. In the response, applicant states that "[t]he evidence submitted in the Petition clearly shows that this subject matter was in public use at least in April 2005, if not earlier. Accordingly, being one year before the filing date of the Parent CIP...it constitutes a statutory bar [under 102(b)] against a claim based on the new matter." Applicant asserts that the claims in the subject application are based on the subject matter of the grandparent application filed September 30, 2004, which is prior to the public use date of April 2005. Applicant further states that "Applicant acknowledges and concedes the public use proven by the Petition."

Thereafter, on April 18, 2008, petitioner filed a reply in opposition to applicant's response to the petition.

The purpose of a public use proceeding is to provide a mechanism by which a third party may present factual evidence to the U.S. Patent and Trademark Office in order to establish that subject matter claimed in a pending application was in public use or on sale in this country more than one year prior to the effective U.S. filing date of the claims of the pending application. The institution of public use proceedings is discretionary with the Commissioner.

In this case, applicant is not denying the allegations regarding "public use or on sale" activity presented in the petition.

MPEP 720.04 states in part that:

> In all public use proceedings, whether the ultimate issue is anticipation under 35 U.S.C. 102(b) or obviousness over 35 U.S.C. 103, testimony will be limited to the issues of public use or on sale. No testimony will be received on whether the claimed subject matter would have been obvious over subject matter asserted to be in public use or on sale.

As indicated in the MPEP, the policy of the Office is to limit testimony to the facts establishing what was in "public use or on sale" and to the facts establishing when and where the "public use or sale" occurred. Information that applicant "did not invent the subject matter sought to be patented" (35 U.S.C. 102(f)) may be presented by way of a protest under 37 CFR 1.291. See MPEP 1901.02. A public use proceeding is clearly unnecessary for that purpose. Note that any protest under 37 CFR 1.291 must be filed prior to the date the application was published under 37 CFR 1.211, or a notice of allowance under 37 CFR 1.311 was mailed, whichever occurs first.

In view of the admissions above, there is no need to institute public use proceedings in this particular case. Therefore, the petition is dismissed.

The examiner will, of course, consider the "public use or on sale" admissions made by the applicant during examination of the application.

After mailing of this decision, the $1510.00 petition fee will be charged to petitioner's deposit account No. 50-1860 as authorized in the petition.

Thereafter, the jurisdiction of the application will be returned to the Office of Patent Application Processing for further processing as may be appropriate.

Telephone inquiries with respect to this matter should be directed to Eugenia Jones, Senior Legal Advisor, at (571) 272-7727.

Fred A. Silverberg

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Michael R. Casey
Davidson Berquist Jackson & Gowdy LLP
4300 Wilson Blvd., 7th Floor
Arlington, VA 22203

(Attorney for Petitioner)

JUL 1 2008

In re Application of
[ ]
Filed: [ ]
Application No. [ ]
For: [ ]

: DECISION DISMISSING PETITION

This is a decision on the "Petition Under 37 CFR 1.292 For A Public Use Proceeding" filed March 3, 2008, requesting that public use proceedings be instituted.

The petition was accompanied by Appendixes 1-3 and the declarations of Mark Gottlieb, Sharon Gottlieb, and Warren Bosch, with exhibits. The petition included an authorization to charge the petition fee to petitioner's deposit account.

On March 18, 2008, applicant filed a response to the petition. In the response, applicant states that "[t]he evidence submitted in the Petition clearly shows that this subject matter was in public use at least in April 2005, if not earlier. Accordingly, being one year before the filing date of the Parent CIP...it constitutes a statutory bar [under 102(b)] against a claim based on the new matter." Applicant asserts that the claims in the subject application are based on the subject matter of the grandparent application filed September 30, 2004, which is prior to the public use date of April 2005. Applicant further states that "Applicant acknowledges and concedes the public use proven by the Petition."

Thereafter, on April 18, 2008, petitioner filed a reply in opposition to applicant's response to the petition.

The purpose of a public use proceeding is to provide a mechanism by which a third party may present factual evidence to the U.S. Patent and Trademark Office in order to establish that subject matter claimed in a pending application was in public use or on sale in this country more than one year prior to the effective U.S. filing date of the claims of the pending application. The institution of public use proceedings is discretionary with the Commissioner.

In this case, applicant is not denying the allegations regarding "public use or on sale" activity presented in the petition.

MPEP 720.04 states in part that:

> In all public use proceedings, whether the ultimate issue is anticipation under 35 U.S.C. 102(b) or obviousness over 35 U.S.C. 103, testimony will be limited to the issues of public use or on sale. No testimony will be received on whether the claimed subject matter would have been obvious over subject matter asserted to be in public use or on sale.

As indicated in the MPEP, the policy of the Office is to limit testimony to the facts establishing what was in "public use or on sale" and to the facts establishing when and where the "public use or sale" occurred. Information that applicant "did not invent the subject matter sought to be patented" (35 U.S.C. 102(f)) may be presented by way of a protest under 37 CFR 1.291. See MPEP 1901.02. A public use proceeding is clearly unnecessary for that purpose. Note that any protest under 37 CFR 1.291 must be filed prior to the date the application was published under 37 CFR 1.211, or a notice of allowance under 37 CFR 1.311 was mailed, whichever occurs first.

In view of the admissions above, there is no need to institute public use proceedings in this particular case. Therefore, the petition is dismissed.

The examiner will, of course, consider the "public use or on sale" admissions made by the applicant during examination of the application.

After mailing of this decision, the $1510.00 petition fee will be charged to petitioner's deposit account No. 50-1860 as authorized in the petition.

Thereafter, the jurisdiction of the application will be returned to the Office of Patent Application Processing for further processing as may be appropriate.

Telephone inquiries with respect to this matter should be directed to Eugenia Jones, Senior Legal Advisor, at (571) 272-7727.

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of :
Miles DUDMAN, et al. :
Application No. 11/949,245 : DECISION ON PETITION
Filed: December 3, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **M227/4250P** :

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 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 Corrected Application Papers, mailed August 27, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on October 28, 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 substitute specification; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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WOODBURY NY 11797

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OCT 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Cho et al.	:	
Application No. 11/949,299	:	DECISION ON PETITION
Filed: December 3, 2007	:	
Attorney Docket No. 8021-190 CON CIP	:	

This is a decision on the petition, filed September 18, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 18, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. A Notice of Abandonment was mailed on August 29, 2008.

Petitioner asserts that the Office action dated December 18, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A petition to withdraw the holding of abandonment under 37 CFR 1.181 does not require a petition fee. Accordingly, the $130.00 fee submitted with the instant petition will be refunded to petitioner's credit card.

This application is being referred to the Office of Patent Application Processing technical support staff for re-mailing the Office action of December 18, 2007. The period for reply will run from the mailing date of the Office action.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Eungman Kim	:	
Application No. 11/949,326	:	ON PETITION
Filed: December 3, 2007	:	
Attorney Docket No. 060945-5152-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 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 June 24, 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 September 25, 2008. The Notice of Abandonment was mailed December 29, 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) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3616 for appropriate action on the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

WILSON DANIEL SWAYZE, JR.
3804 CLEARWATER CT.
PLANO, TX 75025

In re Application of :
Lev Kharag :
Application No. 11/949,332 : ON PETITION
Filed: December 3, 2007 :
Attorney Docket No. WDS-3540 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed December 18, 2007. The notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 and additional claim fees of $50. On February 11, 2008, applicant submitted replacement drawings without the additional claim fees. On February 28, 2008, a Notice of Incomplete Reply was mailed, requiring the claim fees. Applicant was reminded that the response period continued to run from the December 18, 2007 notice and that extensions of time under the provisions of 1.136(a) were available. On July 15, 2008, the present petition was filed. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of additional claim fees of $50; (2) the petition fee of $770; 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 relating to this decision should be directed to the undersigned at (571) 3204. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

In re Application of:
SIMONEAU, LAURENT, et al
Serial No.: 11/949,346
Filed: December 3, 2007

Title: **METHOD TO TRAIN THE LANGUAGE MODEL OF A SPEECH RECOGNITION SYSTEM TO CONVERT AND INDEX VOICEMAILS ON A SEARCH ENGINE**

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 December 3, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II. items 5.2, 5.3.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search in the following class/ subclasses: 704/256.2 and 256.3; 707/104.1, E17.095, E17.102.

If any request for reconsideration is filed, an updated preexamination search must be conducted as per items 5.2 and 5.3 above, and the Preexamination Search Document must be amended to indicate such; a new Information Disclosure Statement should be filed to cite any newly found prior art, and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of any newly found and cited prior art in accordance with all of items 6 through 6.6 above; as well as the necessary updated discussion of patentability for each of the dependent claims (or a statement that claims stand or fall together) as set forth above.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
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TECHNOLOGY CENTER 2600

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

In re Application of:
SIMONEAU, LAURENT. et al,
Serial No.: 11/949,346
Filed: December 03, 2007

Title: **METHOD TO TRAIN THE LANGUAGE MODEL OF A SPEECH RECOGNITION SYSTEM TO CONVERT AND INDEX VOICEMAILS ON A SEARCH ENGINE**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on February 13, 2008 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

All of the requirements to correct the deficiencies outlined in the petition decision mailed January 15, 2008 have been met.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:

If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Michael Horabik, Quality Assurance Specialist, at (571) 272-3068.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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HELLER EHRMAN LLP
4350 LA JOLLA VILAGE DRIVE, 7TH FL.
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
Sharon ERICKSON, et al :
Application No. 11/949,351 : DECISION ON PETITION
Filed: December 3, 2007 : TO WITHDRAW
Attorney Docket No. GNE-0073 : FROM RECORD
:

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 3, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman LLP, has been revoked by the assignee of the patent application on November 10, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated 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: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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OFFICE OF PETITIONS

In re Application of :
Martin Bayer et al :
Application Number:11/949,393 :
Deposited: December 3, 2007 : DECISION ON PETITION
Attorney Docket Number: 4587-073551 :

This is a decision on the petition under 37 CFR 1.57(a), requesting that the above-identified application be accorded a filing date of December 3, 2007.

The petition is **DISMISSED**.

It is noted that the filing receipt was sent prematurely and thus must be **VACATED**.

On December 3, 2007, the application was deposited.

Accordingly, on February 11, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Nonprovisional Application, stating the application had not been accorded a filing date because the application was deposited without the specification as required by 35 U.S.C. 113.

On February 21, 2008, the present petition was filed. Petitioner concedes that the English language specification, including the claims, abstract and drawings were inadvertently omitted from the application papers deposited on December 3, 2007, but requests a filing date of December 3, 2007, because the application claims the benefit of prior-filed German Patent Application No. 10 2006 057 385.4, filed December 4, 2006. Petitioner has also supplied a copy of the inadvertently omitted specification, claims, abstract and drawings.

Relying on §1.57(a), applicant asserts that the specification, including the claims, abstract and drawings are effectively incorporated by reference.

37 CFR 1.57 states, in pertinent part:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) **The application must be amended to include the inadvertently omitted portion of the specification or drawing(s)** within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:
>
> (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
>
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
>
> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.
>
> ...
>
> (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).

(emphasis added)

The petition lacks an amendment directing entry of the inadvertently omitted items and an English translation of the prior-filed German Application No. 10 2006 057 385.4, filed December 4, 2006, as required by 37 CFR 1.57(a)(1)(ii).

A renewed petition, accompanied by the required copy of the English translation of the foreign application must be supplied.

The petition fee has been received, and no additional fee is due.

Any request for reconsideration should be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to Karen Creasy at (571) 272-3208.

Anthony Knight
Supervisor
Office of Petitions

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436 SEVENTH AVENUE
PITTSBURGH PA 15219

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JAN 21 2009

In re Application of :
Martin Bayer et al : DECISION ON PETITION
Application No. 11/949,393 :
Deposited: December 3, 2007 :
Atty. Docket No. 4587-073551 :

This is a decision on the renewed petition under 37 CFR 1.57(a), filed January 7, 2009, requesting that the above-identified application be accorded a filing date of December 3, 2007.

The petition is **GRANTED**.

The application was deposited on December 3, 2007. On February 11, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Nonprovisional Aplication,stating the application has not been accorded a filing date because the application was deposited without the specification as required by 35 U.S.C. 113.

The instant renewed petition was filed on January 7, 2009, and is accompanied by an English language translation of the priority German Patent Application No. 10 2006 057 385.4 filed December 4, 2006, and, an amendment requesting entry of the omitted specification, including the claims abstract and drawings.

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporated by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57 , applicant's are required to amend the application to include the inadvertently omitted material, and supply a copy of the prior-filed application and identify where the inadvertently omitted portion of the specification can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application

was determined not to be entitled to a filing date. Accordingly, a petition is required to amend the applicatioin pursuant to 37 CFR 1.57.

In view thereof, the petition under § 1.57(a) is **GRANTED**. The amendment will be entered in due course.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for according of a filing date of **December 3, 2007**, using the application papers received in the Office on that date and the specification, including claims, abstract and drawings submitted with the present petition.

The application is referred to the Office of Patent Application Processing for further processing and the issuance of a corrected filing receipt.

Telephone inquiries specific to this decision should be directed to Karen Creasy at (571)272-3208.

Anthony Knight
Supervisor
Office of Petitions

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1005 North Warson Road
Suite 201
ST. LOUIS MO 63132

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OFFICE OF PETITIONS

In re Application of :
Gant, et al. :
Application No. 11/949,402 : ON PETITION
Filed: December 3, 2007 :
Attorney Docket No. APX0012-201-US :
For: PREPARATION AND UTILITY OF SUBSTITUTED OXZOLIDINONES

This is a decision on the petition, filed April 23, 2010, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 6, 2009 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 7, 2009. A Notice of Abandonment was mailed on April 13, 2010.

Applicants have submitted an amendment in reply to the July 6, 2009 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 6, 2009 non-final Office action, and the $810.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center Art Unit 1626 for consideration of the amendment and IDS filed on April 23, 2010.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/949,426	12/03/2007	Byeongju Park	FIS920070092US1 (20958)	4751

45600 7590 01/10/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
Suite 300
GARDEN CITY, NY 11530

EXAMINER	
ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

JAN 10 2008

In re Application of:
PARK *et al.*
Serial No.: 11/949,426
Filed: December 03, 2007
Title: **PROGRAMMING CURRENT STABILIZED ELECTRICAL FUSE PROGRAMMING CIRCUIT AND METHOD**

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 December 03, 2007, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any dependent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1-4; II.1-5, 5.1-5.3, 6.1-6.4 and 6.6, above are considered to have been met. However, the petition fails to comply with conditions II. 6.5, above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of II.6.5, the petition is required to provide a showing of where **each limitation** of the application claims finds support under 35 USC 112, first paragraph, in the written description of the specification. Petitioner neither clearly shows support for each limitation, nor is it pointed out in the written description of the specification. For these reasons, the petition does not meet the requirements of II. 6.5, as set forth above.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Clayton E. LaBalle
Special Program Examiner
Technology Center 2800

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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.
11/949,426	12/03/2007	Byeongju Park	FIS920070092US1 (20958)	4751

45600 7590 04/14/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
Suite 300
GARDEN CITY, NY 11530

EXAMINER	
ART UNIT	PAPER NUMBER
2816	

MAIL DATE	DELIVERY MODE
04/14/2008	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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

In re Application of:
PARK *et al.*
Serial No.: 11/949,426
Filed: December 03, 2007
Title: **PROGRAMMING CURRENT STABILIZED ELECTRICAL FUSE PROGRAMMING CIRCUIT AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This decision is a reply to the communication filed February 11, 2008. The communication is being treated as a petition requesting reconsideration of the previous decision of January 10, 2008, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed December 03, 2007.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 C.F.R. §1.181, §1.182 or §1.183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1594.

Clayton E. LaBalle, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/949,426	12/03/2007	Byeongju Park	FIS920070092US1 (20958)	4751

45600 7590 04/15/2008

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400 GARDEN CITY PLAZA
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EXAMINER	
ART UNIT	PAPER NUMBER
2816	

MAIL DATE	DELIVERY MODE
04/15/2008	PAPER

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

APR 15 2008

In re Application of:
PARK *et al.*
Serial No.: 11/949,426
Filed: December 03, 2007
Title: **PROGRAMMING CURRENT STABILIZED ELECTRICAL FUSE PROGRAMMING CIRCUIT AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This decision is a reply to the communication filed February 11, 2008. The communication is being treated as a petition requesting reconsideration of the previous decision of January 10, 2008, dismissing the petition to make special under 37 C.F.R. §1.102(d) filed December 03, 2007.

The petition to make the application special is GRANTED.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

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If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

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4. Time for Reply:
   An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 C.F.R. §1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
   A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 C.F.R. §1.97 and §1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

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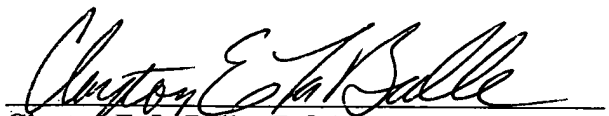
If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1594.



Clayton E. LaBalle, T-QAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/949,448	12/03/2007	Masayuki FUKUI	072263	4790

7590 12/16/2008

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WASHINGTON, DC 20036

EXAMINER	
ALLEN, WILLIAM J	

ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
12/16/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 12/18/2008 BPOWELL
12/04/2007 INTEFSW 00002242 11949448
02 FC:1111 -510.00 OP
04 FC:1203 -370.00 OP

Adjustment date: 12/18/2008 BPOWELL
12/04/2007 INTEFSW 00002242 11949448
02 FC:1111 -510.00 OP
04 FC:1203 -370.00 OP

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ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Larry R. Landis	: DECISION ON REQUEST FOR
Patent Number	: 7648030	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/949,464	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

COPY MAILED

SEP 02 2008

In re Application of	:	
Glenn Geisendorfer	:	
Application No. 11/949,474	:	DECISION ON PETITION
Filed: December 3, 2007	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.47(B)
005127.01075	:	
Title: GAME BALL	:	

This is in response to the petition pursuant to 37 C.F.R. § 1.47(b), filed July 21, 2008.

On December 3, 2007, this application was filed, identifying Glenn Geisendorfer as the sole inventor. On December 19, 2007, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the associated surcharge. This Notice set a two-month period for reply.

A grantable petition under 37 C.F.R. § 1.47(b) requires:

(1) the petition fee of as set forth in 37 C.F.R. § 1.17(g);
(2) the surcharge as set forth in 37 C.F.R. § 1.16(e), if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of each of the non- signing inventors;
(4) proof that either:
    (a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing

inventors refused to sign, or;
(b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. § 1.63.

With this petition, Petitioner has submitted, *inter alia*, the petition fee, a declaration that has been executed by an attorney[1] along with the associated surcharge, the last known address of each non-signing inventor, and proof of irreparable damage.

Petitioner has met requirements (1) - (3) and (6) - (7) of Rule 1.47(b). Requirements (4) - (5) have not been satisfied.

Regarding the fourth requirement of Rule 1.47(b), Petitioner has asserted "the Inventor Cannot Be Located or Refuses to Cooperate."[2]

A petitioner cannot allege the address of a non-signing inventor is unknown, and then assert a refusal to sign. He can either claim the person cannot be located, whereby he does not have to establish the inventor received the application papers, or he can allege a refusal to sign. If he is alleging a refusal to sign, he must to establish that a bona fide attempt was made to present a copy of the application papers to each non-signing inventor[3] (which would require a known address).

The language "the Inventor Cannot Be Located or Refuses to Cooperate" is being interpreted as an assertion that Petitioner has not been able to locate the inventor. This is due to Petitioner's assertion that a package that was mailed to the last-known address and the package was returned to the sender

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1 Petitioner, a registered attorney, has executed the declaration and has submitted that he is authorized to act and sign the declaration on behalf of the corporation. See MPEP § 409.03(b): "[w]here 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."
2 Petition, page 2.
3 See MPEP § 409.03(d).

with an indication "customer not available or business closed."[4] As such, Petitioner has actual knowledge that the last-known address is no longer valid.

Since Petitioner's statement is being construed to mean that the inventor cannot be found or reached, Petitioner is required to establish that a diligent effort was made to locate this individual. Petitioner has provided a copy of the search that was performed, and it is clear that the search was narrowly tailored to only search for records in the state of Georgia. It is plausible that Mr. Geisendorfer has since moved to another state, and as such, the search was too narrow to constitute a diligent search. Thus, **the search was not sufficiently broad so as to provide a reasonable chance of success.**

Regarding the fifth requirement of Rule 1.47(b), Petitioner has failed to prove sufficient proprietary interest in the subject matter to justify the filing of the application,[5] in that the chain of title is not complete.[6] Petitioner has not established that the non-signing inventor assigned his rights to Nike, the purported assignee.

Petitioner has asserted that Mr. Geisendorfer has assigned his rights to Nike concerning patent applications that pertain to similar technology, but this is not how proprietary interest in a particular patent application is established.

No assignment documents pertaining to this application have been provided, and no Reel and Frame number where the recordation of this assignment may be found has been provided. Furthermore, there is no record in the Office's Patent Application Location and Monitoring System of an Assignment involving this application. These facts fail to establish that the purported assignee has any proprietary interest in the application at hand, and it appears that the inventor never assigned any rights in the present invention to the corporation.[7]

On renewed petition, Petitioner should provide either an executed copy of the employment agreement, an executed assignment document, 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 the authority, award title to the invention to the Rule 47(b) applicant.

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4 See Petition, page 3 and Federal Express Tracking Report.
5 See 35 U.S.C. § 118, 37 C.F.R. §1.47(b), and MPEP § 409.03(f).
6 See 37 C.F.R. § 3.73(b).
7 See MPEP § 402.07 and 37 C.F.R. § 3.71(c).

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any such renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[8] hand-delivery,[9] or facsimile.[10] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[11]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[12] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
10 (571) 273-8300- please note this is a central facsimile number.
11 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
12 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/949,478	12/03/2007	David Harold Berk	IL920070062US1 (21436)	4841

48233 7590 02/26/2008

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EXAMINER	
MOFIZ, APU M	

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
02/26/2008	PAPER

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Michael A. Petrocelli
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza
Suite 300
Garden City, New York 11530

In re Application of:
David H. BERK et al
Serial No.: 11/949,478
Filed: December 03, 2007
Attorney Docket: IL920070062US1 (21436)
Title: DYNAMIC TIME-DIMENSION DEPENDENT PHYSICAL MANAGEMENT ON DIVERSE MEDIA OF VERY LARGE EVENT-RECORDING DATA-STORE

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 December 03, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims is patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the

showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I.1 - I.4, II.1 - II.4, II.5.1 - II.5.3, II.6.1 - II.6.4 and II.6.6 above are considered to have been met. However, the petition fails to comply with conditions II.6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document identifies figures 1-3 and paragraphs [0016] – [0043] in the instant specification as providing support under 35 U.S.C. § 112, First paragraph for claims 1 and 2. A review of the disclosure indicates that the petitioner is referred to all of the disclosed figures and the entire detailed description of the disclosed figures to provide support under 35 U.S.C. § 112, First paragraph for claims 1 and 2. Thus, the Accelerated Examination Support Document fails to specifically identify what elements in the figure(s) corresponding to each claim limitations and fails to specifically identify each claim limitations and the corresponding support in the cited portions of the instant specification. A clarification and identification of support is required.

DECISION

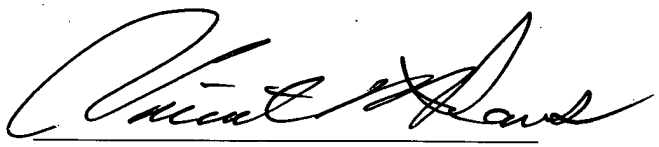
For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal

of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/949,478	12/03/2007	David Harold Berk	IL920070062US1 (21436)	4841

48233 7590 04/01/2008

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ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
04/01/2008	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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In re Application of:
David H. BERK, et al.
Serial No.: 11/949,478
Filed: December 3, 2007
Title: DYNAMIC TIME-DIMENSION DEPENDENT PHYSICAL MANAGEMENT ON DIVERSE MEDIA OF VERY LARGE EVENT-RECORDING DATA-STORE

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on March 26, 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 **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

   For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

   To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

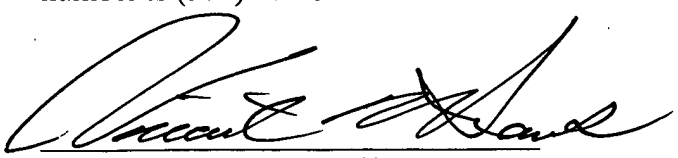
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



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