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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/949,507 | 12/03/2007 | Margaret A. Beynon | GB920070138US1 | 4889 |

74599 7590 01/17/2008

Cantor Colburn LLP-IBM Europe
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER | |
|---|---|
| CALDWELL, ANDREW T | |
| ART UNIT | PAPER NUMBER |
| 2142 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/17/2008 | 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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1/14/08

CANTOR COLBURN LLP - IBM LOTUS
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of:
Margaret A. BEYNON, et al.
Serial No.: 11/949,507
Filed: Dec 03, 2007
Docket: GB920070138US1
Title: **METHODS FOR THE CREATION OF MULTIPLE EMAIL MESSAGES FROM A SINGULAR EMAIL MESSAGE**

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 Dec 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 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**.

With respect to the search logic, based upon the claimed subject matter of the instant application and the features which have been identified as patentable distinctions between the claimed invention and the references deemed most closely related to the claimed invention in the Examination Support Document filed with the petition. Specifically, the search logic does not include the relevant search terms for claimed features such as "associating a section identifier tag with each identified paragraph section within the primary email message", "displaying each section identifier tag in proximity with the paragraph section","displaying a secondary email message text-editing window", "secondary email message is composed by selecting a section identifier tag that is displayed within the primary email text-editing window and dragging the section identifier tag into the secondary email text-editing window", "section identifier tag and the paragraph section that is associated with the section identifier tag being displayed within the secondary email text-editing window". It is noted these features have been identified in the Detailed Explanation of Patentability by applicant to distinguishing the instant claimed subject matter from the cited prior art. Since the search logic does not include the search terms related to features mentioned above, the alleged patentability appear to have not been searched.

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 709 subclass 204-206, 217-219 and class 715 subclass 513) 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 subclasses have been searched in their entirety. Furthermore, 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 715 subclasses 512 (document annotation control), 514 (hierarchical control), 525 (pagination), and 530 (document edit and composition).

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)(3) and item 6.2-6.3 above, the Discussion in Section 9(B) of the Accelerated Examination Support Document does not provide a detailed explanation of how **each of the claims** feature is disclosed by the reference. Rather, section 9(B) appears to provide only a general discussion of claim 1 in association with the cited references, no explanation or discussion for claims 2-5 are found. Petitioner should provide a **claim-by-claim mapping** of the pertinent subject matter disclosed in each of the references, specifically **identifying each claim limitation** and corresponding disclosure within the reference, citing to specific relevant portions of each reference. In section 9(C), Detailed Explanation of Patentability, the petitioner should provide a specific statement indicating whether any additional patentability features are included in the dependent claims 2-5. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document". 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)(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. The statement indicates "independent claims **X, X, and X** has utility" (emphasis added) needs clarification.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and items 6.5-6.6 above, section 9(C) of the Accelerated Examination Support Document does not appear to provide support under 35 U.S.C. 112, First paragraph for each claim limitations. The petitioner cited Figs. 1-3 and paragraphs 13-21 to support the claimed limitations; however, ***each claim limitation*** is not ***separately identified*** with corresponding cited portion of the specification. Section 9(C) of the document provides a reasonable showing of support for the features of claim 1 but fails to specify how each limitation in claims 2-5 is mapped. It is also noted that there no statement to identify if any cited references may be disqualified under 35 USC 103(c). Clarification and identification of support is required.

## DECISION

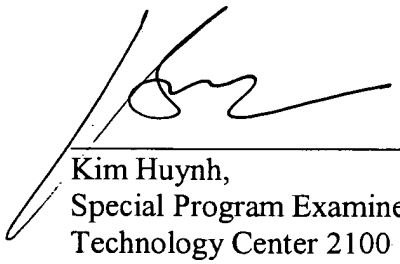
For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

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. |
|---|---|---|---|---|
| 11/949,507 | 12/03/2007 | Margaret A. Beynon | GB920070138US1 | 4889 |

74599 7590 03/28/2008

Cantor Colburn LLP-IBM Europe
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER |
|---|
| CALDWELL, ANDREW T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2142 | |

| 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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CANTOR COLBURN LLP - IBM LOTUS
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of:
Margaret A. BEYNON, et al.
Serial No.: 11/949,507
Filed: Dec 03, 2007
Docket: GB920070138US1
Title: **METHODS FOR THE CREATION OF MULTIPLE EMAIL MESSAGES FROM A SINGULAR EMAIL MESSAGE**

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 Feb 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 Dec 03, 2007 was dismissed in the decision mailed on Jan 17, 2008.

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

The reasons for the dismissal were inadequate search and an inadequate Support Document. Specifically, the petition failed to comply with conditions II.5, specifically II.5.2 and II.5.3, II.6.2, II 6.3; II 6.5, and II.6.6.

Regarding item II 5.2 and 5.3, the updated search and the submission of the Shaw reference are noted. Regarding item II.6.6, the statement of identification of references disqualified as prior art under 35 U.S.C. 103(c) is acknowledged.

Upon review of the Renewed Petition filed on Feb 15, 2007, the following deficiencies were noted with respect to conditions II.6.2, II 6.3, and II 6.5 as explained below.

Regarding items II.6.2 and 6.3, in Section 9(B) of the Accelerated Examination Support Document (AESD), the discussion of the pertinent references appears to be in conflict with the original discussion as to whether the Goldberg and Chen references teach the limitation of "displaying within the GUI a secondary email message text-editing window for each determined secondary email message that is to be composed". In page 5 of the original AESD , the petitioner indicates that such limitation was disclosed by Golberg (col. 3, lines 45 - 67, col. 4,

lines 23 - 42) and Chen (paragraphs 0047 - 0049). In the instant petition, Section 9(B) of the AESD **omits these citations** and further indicates in section 9(C), Detailed Explanation of Patentability, that such limitation is not taught or disclosed by any of the cited references. No clarification or explanation is found for this deficiency.

Furthermore, in the dismissal of Jan 17, 2008, the petitioner was required to provide a detailed explanation of how **each feature of claims 2-5** are disclosed by the references and to clarify which (if any) of the features in claims 2-5 are patentable over the cited references. In the renewed petition, the petitioner indicated that claims 2-5 "have features that would define over the references "if independent claims 1 and 4" were found to be unpatentable. Note that claim 1 is the only independent claim in the application and claim 4 is a dependent claim (depends from claim 3). It is assumed that the indication that claim 4 being independent claim is a typo. Even so, the document fails to provide any discussion of claim 2-5 or provide a detailed explanation of how **each of claims 2-5** is patentable with the particularity required by 37 CFR 1.111(b) and (c). 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. Specifically, **petitioner did not point out any claim limitations believed to be patentably distinguishing claimed invention from the cited references**. 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 requirements of MPEP § 708.02(a) (I.)(I)(2) and (3).

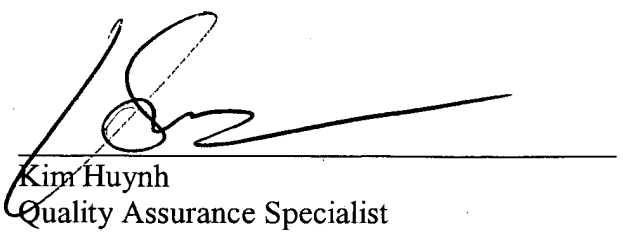
Several attempts were made to contact the petitioner in order to clarify the above issues without success (phone messages on Mar 17, 2008 and again on Mar 19, 2008 with no response).

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.

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

Any inquiry regarding this decision should be directed 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
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**SHERIDAN ROSS PC**
**1560 BROADWAY**
**SUITE 1200**
**DENVER CO 80202**

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :

**WING**, Robert et al. :
Application No. 11/949,520 :
Filed: December 03, 2007 :
Attorney Docket No. **3354-9-CIP-2-1** :

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 20, 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 Bradley M. Knepper on behalf of all attorneys of record who are associated with customer No. 22442. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed January 14, 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: **ROBERT WING**
**PC PERIPHERALS, INC.**
**4740 W. 127TH PLACE**
**BROOMFIELD, CO 80020**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/949,578 | 12/03/2007 | David Patrick Fromm | 10070217-1 | 5023 |

7590 12/11/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

| EXAMINER | |
|---|---|
| RAEVIS, ROBERT R | |
| **ART UNIT** | **PAPER NUMBER** |
| 2856 | |
| **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.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 NFARMER
12/04/2007 INTEFSW 00000377 5019078 11949578
02 FC:1111 510.00 CR

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

**MAILED**

MAY 24 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| MARUYAMA et al. | : | DECISION ON APPLICATION |
| Application No. 11/949,585 | : | FOR PATENT TERM ADJUSTMENT |
| Filed: December 3, 2007 | : | |
| Attorney Docket No. 06042.0016 | : | |

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed January 4, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be set at 114 days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR and PALM screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **87 days.** A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On October 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days. Applicants timely filed the instant application for patent term adjustment[1]. Applicants dispute the entry of the period of reduction of 161 days on September 12, 2008, for "Additional Application Filing Fees"

[1] PALM Records indicate that the Issue Fee payment was received on January 4, 2010.

because applicants did not submit a payment for additional fees nor file any other papers on that date.

A review of the application record supports applicants' assertion that they did not submit any payment for additional fees nor file any other papers in this application on September 12, 2008. Accordingly, the period of reduction of 161 days is not warranted and will be removed.

However, the record reveals that applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on September 23, 2009, after filing a proper reply to the non-final Office action on August 27, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed September 23, 2009, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 27 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the reply was filed, August 28, 2009, and ending on the date that the IDS was filed, September 23, 2009. A period of reduction of 27 days is warranted and will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 87 days (114 days of Office delay - 27 days of applicant delay).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

---

[2] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

| PTA Calculations for Application: 11/949585 | | | |
|---|---|---|---|
| Application Filing Date: | 12/03/2007 | PTO Delay (PTO): | 114 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 161 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 87 |
| PTO Delay Adjustment: | 134 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 62 | 05/24/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 27 | |
| 61 | 05/24/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | 161 | | |
| 42 | 10/06/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 41 | 10/05/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 40 | 10/05/2009 | ISSUE REVISION COMPLETED | | | |
| 39 | 10/05/2009 | DOCUMENT VERIFICATION | | | |
| 38 | 09/23/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 37 | 09/28/2009 | NOTICE OF ALLOWABILITY | | | |
| 31 | 09/23/2009 | DATE FORWARDED TO EXAMINER | | | |
| 30 | 08/27/2009 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 29 | 05/28/2009 | MAIL NON-FINAL REJECTION | 114 | | -1 |
| 28 | 05/26/2009 | NON-FINAL REJECTION | | | |
| 27 | 06/25/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 26 | 06/04/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 25 | 04/28/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 24 | 04/15/2009 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 02/04/2009 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 22 | 06/25/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 21 | 06/04/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 20 | 12/03/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

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|---|---|---|---|---|---|
| 19 | 01/29/2009 | PG-PUB ISSUE NOTIFICATION | | | |
| 18 | 11/06/2008 | APPLICATION DISPATCHED FROM OIPE | | | |
| 17 | 10/20/2008 | SENT TO CLASSIFICATION CONTRACTOR | | | |
| 16 | 10/20/2008 | FILING RECEIPT - UPDATED | | | |
| 15 | 10/02/2008 | ADDITIONAL APPLICATION FILING FEES | | | |
| 14 | 10/02/2008 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 13 | 10/02/2008 | REQUEST FROM APPLICANT FOR THE USPTO TO RETRIEVE THE PRIORITY DOCUMENT | | | |
| 12 | 09/15/2008 | MAIL PRE-EXAM NOTICE | | | |
| 11 | 09/15/2008 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 10 | 09/15/2008 | FILING RECEIPT | | | |
| 9 | 09/12/2008 | ADDITIONAL APPLICATION FILING FEES | | 161 | 5 |
| 8 | 01/04/2008 | PRE-EXAM OFFICE ACTION WITHDRAWN | | | |
| 7 | 06/25/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 6 | 06/04/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 5 | 01/04/2008 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 4 | 01/04/2008 | FILING RECEIPT | | | |
| 3 | 12/27/2007 | CLEARED BY OIPE CSR | | | |
| 2 | 12/10/2007 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 12/03/2007 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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AUG 13 2008

OFFICE OF PETITIONS

**Heller Ehrman, LLP**
**4350 La Jolla Village Drive, 7th Floor**
**San Diego, CA 92122**

In re Application of :
Jian Chen et al. :
Application No. 11/949,633 : DECISION ON PETITION
Filed: December 3, 2007 : TO WITHDRAW
Attorney Docket No. 39766-0290R1C1P4C1C1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by customer number 25213.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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**Hugh D. Jaeger, P.A.**
**P.O. Box 672**
**Wayzata, MN 55391-0672**

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AUG 13 2008

In re Application of :
Jian Chen et al. :
Application No. 11/949,633 : DECISION ON PETITION
Filed: December 3, 2007 : TO WITHDRAW
Attorney Docket No. 39766-0290R1C1P4C1C1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 15, 2008.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to Leslie B. Overman and all attorneys/agents associated with customer number 25213 has been revoked by the assignee of the patent application on July 2, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gregory L. Bradley
Medrad Inc.
One Medrad Drive
Indianola, PA 15051

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OFFICE OF PETITIONS

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

In re Application of
David Ayman Shamma
Application No. 11/949,638
Filed: December 3, 2007
Attorney Docket No. 324212021500

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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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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JAN 14 2009

In re Application of :
Joseph M. Altman :
Application No. 11/949,656 : DECISION ON PETITION
Filed: December 3, 2007 : TO WITHDRAW
Attorney Docket No. 3283-7941.1US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 15, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client 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. The failure to do so may subject the practitioner to discipline.

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

Attachment: Blank copy of the PTO/SB/83

cc: JOSEPH M. ALTMAN
ALTMAN ASSOCIATES
24245 WOODLAND DRIVE
SOUTHFIELD, MI 48034

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P.O. BOX 2550
SALT LAKE CITY, UT 84110

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APR 07 2009

OFFICE OF PETITIONS

In re Application of
Joseph M. Altman
Application No. 11/949,656
Filed: December 3, 2007
Attorney Docket No. 3283-7941.1US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 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 Joseph Walkowski on behalf of all attorneys of record who are associated with customer No. 24247. All attorneys/agents associated with the Customer Number 24247 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 stat us of this application should be directed to the Technology Center.

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

cc: JOSEPH M. ALTMAN
24245 WOODLAND DRIVE
SOUTHFIELD, MI 48034

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/949,656 | 12/03/2007 | Joseph M. Altman | 3283-7941.1US |

**CONFIRMATION NO. 5160**

**POWER OF ATTORNEY NOTICE**

24247
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

*OC000000035229832*

Date Mailed: 03/30/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2009.

- 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Atsuki FUKAZAWA | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7651959 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/949,701 | : 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 **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.

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**MORRISON & FOERSTER, LLP**
**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES CA 90013-1024**

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OFFICE OF PETITIONS

In re Application of
**GRIGGS**, Theodore L.
Application No. 11/949,710
Filed: December 03, 2007
Attorney Docket No. **601542000601**

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 19, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PETER A. EMMI, ESQ.**
**PATTERSON BELKNAP WEBB & TYLER LLP**
**1133 AVENUE OF THE AMERICAS**
**NEW YORK, NY 10036**

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**MUNCY, GEISSLER, OLDS & LOWE, PLLC**
**P.O. BOX 1364**
**FAIRFAX, VA 22038-1364**

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| | | |
|---|---|---|
| In re Application of | : | |
| Kramlich Andreas | : | DECISION ON PETITION |
| Application No. 11/949,712 | : | TO WITHDRAW |
| Filed: December 3, 2007 | : | FROM RECORD |
| Attorney Docket No. 1005/0130PUS1 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on September 3, 2009.

The request is **NOT APPROVED**.

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

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

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

There are no 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

**MAILED**

MAY 20 2009

OFFICE OF PETITIONS

In re Application of :
Josh E. Loukus et al. :
Application No. 11/949,720 : ON PETITION
Filed: December 3, 2007 :
Attorney Docket No. 85805-3 :

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice), mailed January 10, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. However, the response filed August 11, 2008, was deemed incomplete in the Notice of Incomplete Reply Mailed August 19, 2008. The application became abandoned on August 12, 2008 as no further extensions of time were available.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The petition does not satisfy item (1) in that the drawings filed concurrently with the instant petition lack the labeling "Replacement Drawings" in order for compliance with 37 CFR 1.84(c) and 37 CFR 1.121(d) required by the Notice mailed January 10, 2008. This application can not be revived until the item noted above is corrected.

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

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

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

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

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SEP 11 2009

OFFICE OF PETITIONS

In re Application of :
Josh E. Loukus et al. :
Application No. 11/949,720 : DECISION ON PETITION
Filing Date: December 3, 2007 :
Attorney Docket No. 85805-3 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 10, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. However, the response filed August 11, 2008, was deemed incomplete in the Notice of Incomplete Reply mailed August 19, 2008. The application became abandoned on August 12, 2008 as no further extensions of time were available.

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 (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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**PAUL, HASTINGS, JANOFSKY & WALKER LLP**
**875 15TH STREET, NW**
**WASHINGTON DC 20005**

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
**BEULTER,** Thomas et al. :
Application No. 11/949,724 :
Filed: December 03, 2007 :
Attorney Docket No. **74495.00301.UTL1** :

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, 2009.

The request is **APPROVED**.

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

The request was signed by Martin Bader on behalf of all attorneys of record who are associated with customer No. 36183. All attorneys/agents associated with the Customer Number 36183 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THOMAS BUELTER**
**2212 OAK STREET, APT. 6**
**SANTA MONICA CA 90405**

cc: **GEVO, INC.**
**133 NORTH ALTADENA DRIVE**
**SUITE 310**
**DENVER CO 81107**

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**MUNCY, GEISSLER, OLDS & LOWE, PLLC**
**P.O. BOX 1364**
**FAIRFAX, VA 22038-1364**

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| In re Application of | : | |
| Andreas Kramlich | : | DECISION ON PETITION |
| Application No. 11/949,727 | : | TO WITHDRAW |
| Filed: December 3, 2007 | : | FROM RECORD |
| Attorney Docket No. 1005/0145PUS1 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on September 3, 2009.

The request is **NOT APPROVED**.

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

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

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

There 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

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Bad Neustadt, D-97616
**GERMANY**

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| In re Application of | : | |
| Andreas Kramlich | : | |
| Application No. 11/949,747 | : | DECISION ON PETITION |
| Filed: December 3, 2007 | : | TO WITHDRAW FROM |
| Attorney Docket No. BAW0066USC | : | 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 September 3, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Customer Number 60601 has been revoked by the assignee of the above application on September 25, 2009. Accordingly, 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 below-listed address until otherwise notified by applicant.

This application file is being referred to Technology Center Art Unit 2832 to await a response to the Office action mailed September 17, 2009.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

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**ADVANTEDGE LAW GROUP, LLC**
**922 W.BAXTER DR.**
**SUITE 100**
**SOUTH JORDAN UT 84095**

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| | | |
|---|---|---|
| In re Application of | : | |
| Whitehurst et al. | : | DECISION ON PETITION |
| Application No. 11/949,752 | : | TO WITHDRAW |
| Filed: December 3, 2007 | : | FROM RECORD |
| Attorney Docket No. 3013-0177- (05-00771-03) | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 14, 2008.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent submitted on February 14, 2008 is hereby not accepted. Petitioner has not complied with USPTO requirements, as set forth in 37 CFR 10.40, concerning Request for Withdrawal as Attorney.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, i.e. ownership transfer of the listed patents and patent applications, 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 properly notified.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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DEBORAH A. GADOR
P.O. BOX 4133
GANEL TIKVA 55900 IL ISRAEL

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MAY 28 2009

**OFFICE OF PETITIONS**

In re Application of :
Avner Dor et al. :
Application No. 11/949,791 : ON PETITION
Filed: December 4, 2007 :
Attorney Docket No.: **209/10** :

This is a decision on the petition filed November 6, 2008, to change the order of the names of the inventors. The petition is being treated under 37 CFR 1.182.

The petition is **DISMISSED**.

Since petitioners seek to have the order of the inventors changed, a petition fee in the amount of $400.00 is required for treatment of the petition.

Therefore, since no fees were submitted and since no deposit account has been authorized, this petition cannot be treated on the merits and will not receive any consideration until such time as the petition fee has been submitted.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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APR 21 2008

OFFICE OF PETITIONS

In re Application of :
**HOLDEN,** John et al. :
Application No. 11/949,827 : DECISION ON PETITION
Filed: December 04, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **68572(302609)** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 04, 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 John Holden and Richard Rehlander, attesting to their age. Accordingly, the above-identified application will be accorded "special" status.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of Fox :
Application No. 11/949,855 :
Filing Date: December 4, 2007 :
Attorney Docket No. 20070635.ORI :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2010, 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)."

## Background

On February 2, 2009, the Office mailed a final Office action.

On April 13, 2009, Applicant filed a request for continued examination ("RCE").

On April 29, 2009, the Office mailed a non-final Office action.

On July 29, 2009, Applicant filed a Notice of Appeal.

On September 29, 2009, Applicant filed an "Amendment and Withdrawal of Appeal."

The request to withdraw the Notice of Appeal was improperly filed as part of an amendment instead of a separate paper. However, the propriety of the request need not be considered at this time because the application is abandoned regardless of the propriety of the request. If the appeal was withdrawn, the application became abandoned on September 29, 2009, because no claims have been allowed. If the appeal was not withdrawn, the application became abandoned on September 30, 2009, because an appeal brief was not tiled and no claims have been allowed.

On December 10, 2009, the Office mailed a Notice of Abandonment.

On February 4, 2010, Applicant filed the instant petition under 37 CFR 1.137(b). The petition is accompanied by an amendment that appears to be identical to the amendment filed September 29, 2009.

Discussion

A grantable petition under 37 CFR 1.137(b) filed in a utility application which has a filed after June 8, 1995, must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fails to satisfy item (1) listed above.

The Notice of Appeal closed prosecution and none of the claims have been allowed. A RCE is necessary in order to reopen prosecution. The petition is not accompanied by a RCE. Therefore, the petition must be dismissed.

If Petitioner wishes to have prosecution reopened in order to pursue the amendment filed February 4, 2010, a renewed petition and RCE should be filed.

If Petitioner now wishes to pursue the appeal by filing an appeal brief, Petitioner should feel free to contact the undersigned at the phone number provided in this decision to discuss such an option.

Unless filed by EFS-Web, further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

CATALINA & ASSOCIATES
A PROFESSIONAL CORPROATION
1319 PARK STREET, SUITE 100
ROBBINSVILLE, NJ 08691

In re Application of :
George Elamasry :
Application No. 11/949,906 : DECISION ON PETITION
Filed: December 4, 2007 : TO WITHDRAW
Attorney Docket No. 05-11385-22 : 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: GEORGE ELMASRY
D AND S CONSULTANT, 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

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/949,906 | 12/04/2007 | George Elmasry | 05-11385-22 |

**CONFIRMATION NO. 5601**

**POWER OF ATTORNEY NOTICE**

33296
Catalina & Associates
A Professional Corporation
1319 Park Street, Suite 100
Robbinsville, NJ 08691

Date Mailed: 05/29/2009

## 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

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OFFICE OF PETITIONS

MCNEES WALLACE & NURICK LLC
100 PINE STREET
PO BOX 1166
HARRISBURG PA 17108-1166

In re Application of :
Sheahan, et al. :
Application No. 11/949,980 : ON PETITION
Filed: July 21, 2009 :
Attorney Docket No. 05-1059 / :
24058-0002-C1

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 21, 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 final Office action, mailed December 29, 2008. This Office action set a shortened statutory period for reply of three months. Applicants filed an Amendment on March 26, 2009. However, the Amendment failed to place the application in condition for allowance, and Applicants were informed of such in an Advisory Action mailed on April 6, 2009. No further reply having been received, the application became abandoned on March 30, 2009. The Office mailed a Notice of Abandonment on July 9, 2009.

With the instant petition, Applicants paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1110.00 extension of time fee submitted with the petition on July 21, 2009 was subsequent to the maximum period obtainable for reply (June 29, 2009), this fee has been refunded to petitioner's Deposit Account No. 50-1059.

The application is being forwarded to Group Art Unit 3644 for consideration of the RCE, filed July 21, 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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**ROBERT M. SCHWARTZ, P.A.**
**P.O. BOX 221470**
**HOLLYWOOD FL 33022**

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MAR 08 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Jarret Morrow | : | DECISION ON PETITION |
| Application No. 11/950,013 | : | TO WITHDRAW |
| Filed: December 4, 2007 | : | FROM RECORD |
| Attorney Docket No. UN 487.013 | : | |

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 31, 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, a Notice of Abandonment was mailed February 17, 2010.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/950,040 | 12/04/2007 | Michitaro Miyata | J-07-0045 | 5835 |

7590 03/29/2010

Mr. Jackson Chen
6535 N. STATE HWY 161
IRVING, TX 75039

| EXAMINER |
|---|
| BIRKHIMER, CHRISTOPHER D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2186 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/29/2010 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

[illegible]

Check Refund Totals [illegible]

Adjustment date: 03/22/2010 [illegible]
12/03/2007 INTERFS 00002283 11950040
02 FC:1111 -510.00 CP
04 FC:1201 -1050.00 CP



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JAN 29 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KED & ASSOCIATES, LLP
P.O. Box 221200
Chantilly VA 20153-1200

In re Application of
KIM, CHANGNAM
Application No. 11/950,043
Filed: December 04, 2007
Attorney Docket No. RPL-0257

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 29, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(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 pilot program and petition is deficient as follows:

Petitioner has not complied with item 5 above in that although a copy of all the office actions from the KIPO application containing the allowable/patentable claims along with an English

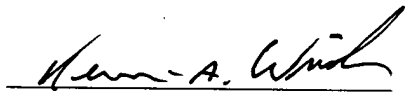
translation thereof have been submitted, the petition fails to include a statement that the English translation is accurate.

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

Any response must be submitted via EFS-web.

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

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



Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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KED & ASSOCIATES, LLP
P.O. Box 221200
Chantilly VA 20153-1200

In re Application of
KIM, CHANGNAM
Application No. 11/950,043
Filed: December 04, 2007
Attorney Docket No. RPL-0257

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 February 27, 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:

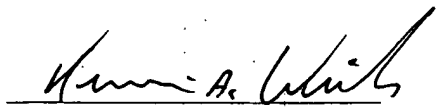
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation 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 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 Kenneth Wieder at 571-272-2986.

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

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



Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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**CORPORATE INTELLECTUAL PROPERTY**
**ONE HEALTH PLAZA 104/3**
**EAST HANOVER NJ 07936-1080**

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
Culshaw et al. :
Application No. 11/950,079 : DECISION GRANTING PETITION
Filed: December 4, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PN/4-32697A :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 1, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed applications set forth in the amendment and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

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

**(1)** the reference required by 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on August 1, 2008. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is direct to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The incorporation herein by reference statement included in the amendment filed with the instant petition is not proper since at the time of filing the instant

application the correct application numbers were not included. However, the Office will accept the priority claim as shown in the application data sheet filed August 1, 2008.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 1624 for appropriate action on the amendment filed August 1, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/950,079 | 12/04/2007 | 1624 | 1240 | PN/4-32697A | 9 | 4 |

**CONFIRMATION NO. 5899**

**CORRECTED FILING RECEIPT**

1095
NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

Date Mailed: 08/21/2008

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

**Applicant(s)**

Andrew James Culshaw, London, UNITED KINGDOM;
Edward Karol Dziadulewicz, London, UNITED KINGDOM;
Allan Hallett, London, UNITED KINGDOM;
Terance William Hart, London, UNITED KINGDOM;

**Power of Attorney:** The patent practitioners associated with Customer Number 001095

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/530,897 03/09/2006 ABN
which is a 371 of PCT/EP03/11276 10/10/2003

**Foreign Applications**

UNITED KINGDOM 0223730.3 10/11/2002

**If Required, Foreign Filing License Granted:** 07/14/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/950,079**

**Projected Publication Date:** 11/27/2008

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

QUINAZOLINONE DERIVATIVES USEFUL AS ANTI-HYPERALGESIC AGENTS

**Preliminary Class**

544

## 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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Buchanan, Ingersoll & Rooney, PC
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In re application of : **DECISION ON PETITION**
Darko Pervan et al. : **TO MAKE SPECIAL FOR**
Application No. 11/950,085 : **NEW APPLICATION**
Filed: December 4, 2007 : **UNDER 37 CFR 1.102**
For: MECHANICAL LOCKING SYSTEM FOR PANELS AND METHOD OF INSTALLING SAME

This is a decision on the petition filed on December 4, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;
6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition in this case fails to comply with conditions II.5.2, and II.6.3, above.

As to condition II.5.2, the petition actually contains a pretty good search. However, there are a couple of areas that need to be explained further. Specifically, there are numerous instances in the text searches where previous searches are further limited but the previous search has never been defined. For example, in the USPTO EAST database search L7 is further limited at the top of page 4, yet L7 was never previously defined. Other similar instances are present in this database search and in the Delphion database search as well. Correction or explanation is needed.

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 (not just the independent claims) are patentable over each of the cited references, which 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. Also, when explaining that a limitiation is not taught by the prior art it should be made clear which specific portion of the limitation is not taught or make it clear that no part of the limitation is taught by any of the references. In addition, any indication of patentability over the prior art references needs to take in to account any distinctions seen as being obvious over any single or a combination of cited references.

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 Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 1/23/08

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In re application of : **DECISION ON PETITION**
Darko Pervan et al. : **TO MAKE SPECIAL FOR**
Application No. 11/950,085 : **NEW APPLICATION**
Filed: December 4, 2007 : **UNDER 37 CFR 1.102**
For: MECHANICAL LOCKING SYSTEM FOR PANELS AND METHOD OF INSTALLING SAME

This is a decision on the renewed petition filed on February 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 **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.

A decision dismissing the petition to make the above-identified application special for accelerated examination was mailed on January 24, 2008. The decision set a non-extendable time period of one month or 30 (thirty) days, whichever is longer, from its mailing date to correct the deficiency/deficiencies in the petition.

On February 25, 2008 a renewed petition was filed that included a new Search Document and a new Support document for attempting to remedy the deficiencies outlined in the above-noted decision of January 24, 2008. Unfortunately, this renewed petition was not submitted electronically using the USPTO's electronic filing system (EFS), or EFS-web, as required. The submission is therefore not acceptable and has not been further treated. Accordingly, the application is no longer eligible for the accelerated examination program.

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

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

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 3/5/08

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Burli et al. | : | |
| Application No. 11/950090 | : | |
| Filing or 371(c) Date: 12/04/2007 | : | |
| Attorney Docket Number: | : | DECISION |
| 020891-001030US | : | ON PETITION |

This is a decision on the "Petition Under 37 CFR § 1.57(a) – Accept Omitted Items and Grant Original Filing Date," filed May 1, 2009, requesting the above-identified application be accorded a filing date of December 4, 2007, including the inadvertently omitted specification. The petition is properly treated under 37 CFR 1.182.

The petition is **granted to the extent indicated below**.

**Background**

Application papers in the above-identified application were deposited on December 4, 2007. On April 9, 2009, 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 specification was missing. In response, Applicants timely filed the present petition. Applicants request that this Office accord the application as filing date based upon both an explicit incorporation by reference of prior application nos. 11/001,237, filed November 30, 2004; 10/165,856, filed June 6, 2002; 60/325,134, filed September 24, 2001, and 60/298,206, filed June 13, 2001, and of a benefit claim to nonprovisional application no. 11/001,237, filed November 30, 2004.

Incorporation by reference

The MPEP provides:

> In an application containing an explicit incorporation by reference statement in the specification or in a transmittal letter (if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material

> contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application.

MPEP 201.06(c)(IV)(A).

A review of the application file reveals that the application incorporated by reference the disclosure of prior application nos. 11/001,237, filed November 30, 2004; 10/165,856, filed June 6, 2002; 60/325,134, filed September 24, 2001, and 60/298,206, filed June 13, 2001. A review of application nos. 11/001,237, filed November 30, 2004; 10/165,856, filed June 6, 2002; 60/325,134, filed September 24, 2001, and 60/298,206, filed June 13, 2001, reveals that the applications each contain a specification including claims. Therefore, based upon applicant's incorporation by reference of the contents of the prior applications on filing of the present application, a filing date of December 4, 2007 may be accorded the present application. Receipt of the amendment to include the inadvertently omitted specification, including claims, from prior application no. 11/001,237, filed November 30, 2004, is hereby acknowledged. The Examiner will address any issues of new matter.

Petition under 37 CFR 1.57(a)

In view of the foregoing, the petition under 37 CFR 1.57(a) is considered moot.

Conclusion

This application is being forwarded to the Office of Patent Application Processing, Customer Corrections, for further processing, with the filing date of December 4, 2007, using the application papers present on that date.

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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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Wenzhe Luo | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7664611 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/950,209 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/04/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **55** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**MORGAN LEWIS & BOCKIUS LLP**
**ONE MARKET, SPEAR STREET TOWER**
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| | | |
|---|---|---|
| In re Application of | : | |
| Si Ho Yoo | : | |
| Application No. 11/950,235 | : | DECISION ON PETITION |
| Effective Date: December 4, 2007 | : | |
| Attorney Docket No. 060943-5092-US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed January 9, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of drawings, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Corrected Application Papers 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.

Telephone inquiries concerning this decision should be directed to Newton Edwards at 571-272-6052 or in his absence to the undersigned at 571-272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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In re application of
Sam Curnow et al.
Application No. 11/950,246
Filed: December 4, 2007
For: SURGICAL TRAY CORNER PROTECTOR

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

This is a decision on the petition filed on December 4, 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 Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Special Program Examiner
Technology Center 3600

Sm/sm: 1/6/08

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OFFICE OF PETITIONS

In re Application of
Randy Breen, et al.
Application No. 11/950,309
Filed: December 4, 2007
Attorney Docket No. 21127-0010001

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 26, 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 David J. Goren on behalf of all attorneys of record who are associated with customer No. 26181. All attorneys/agents associated with the Customer Number 26181 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 action at the present time.

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

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

cc: EMOTIV SYSTEMS PTY LTD
199 NEW MONTGOMERY STREET
SUITE 1202
SAN FRANCISCO, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/950,309 | 12/04/2007 | Randy Breen | 21127-010001 / EEG Headse |

**CONFIRMATION NO. 6299**

**POWER OF ATTORNEY NOTICE**

26181
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

*OC000000042422239*

Date Mailed: 07/06/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2010.

- 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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**CARTER, DELUCA, FARRELL & SCHMIDT, LLP**
**445 BROAD HOLLOW ROAD**
**SUITE 420**
**MELVILLE NY 11747**

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of
Roger J. Talish et al
Application No. 11/950,357
Filed: December 4, 2007
Attorney Docket No. 1429-58

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 12, 2009 and supplemented on April 9, 2009.

The request is **APPROVED**.

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

The request was signed by David M. Carter on behalf of all attorneys of record who are associated with customer No. 31554.

All attorneys/agents associated with the Customer Number 31554 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 Roger J. Talish at the first copied address below until otherwise properly notified by the applicant.**

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**ROGER J. TALISH**
**5 HARMON COURT**
**HILLSBOROUGH, NJ 08844**

**JUVENT, INC.**
**300 ATRIUM DRIVE, SUITE 210**
**SOMERSET NJ 08873**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/950,357 | 12/04/2007 | Roger J. Talish | 1429-58 |

**CONFIRMATION NO. 6394**

**POWER OF ATTORNEY NOTICE**

31554
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

Date Mailed: 06/29/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2009.

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

/kocreasy/

---

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

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**Catalina & Associates**
**A Professional Corporation**
**1319 Park Street, Suite 100**
**Robbinsville, NJ 08691**

MAILED

JUN 0 8 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Christine Podilchuk | : | |
| Application No. 11/950,365 | : | DECISION ON PETITION |
| Filed: December 4, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 05-11385-21A | : | 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard A. Catalina, Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Christine Podilchuk**
**D&S Consultants, Inc.**
**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 |
|---|---|---|---|
| 11/950,365 | 12/04/2007 | Christine Podilchuk | 05-11385-21A |

**CONFIRMATION NO. 6407**

**POWER OF ATTORNEY NOTICE**

33296
Catalina & Associates
A Professional Corporation
1319 Park Street, Suite 100
Robbinsville, NJ 08691

*OC000000036345044*

Date Mailed: 06/05/2009

## 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.

/tswilliams/

---

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

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**CARTER, DELUCA, FARRELL & SCHMIDT, LLP**
**445 BROAD HOLLOW ROAD**
**SUITE 420**
**MELVILLE NY 11747**

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of
Roger J. Talish et al
Application No. 11/950,368
Filed: December 4, 2007
Attorney Docket No. 1429-64

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 12, 2009 and supplemented on April 9, 2009.

The request is **APPROVED**.

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

The request was signed by David M. Carter on behalf of all attorneys of record who are associated with customer No. 31554.

All attorneys/agents associated with the Customer Number 31554 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 Roger J. Talish at the first copied address below until otherwise properly notified by the applicant.**

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**ROGER J. TALISH**
**5 HARMON COURT**
**HILLSBOROUGH, NJ 08844**

**JUVENT, INC.**
**300 ATRIUM DRIVE, SUITE 210**
**SOMERSET NJ 08873**

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/950,368 | 12/04/2007 | Roger J. Talish | 1429-64 |

**CONFIRMATION NO. 6412**

**POWER OF ATTORNEY NOTICE**

31554
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

Date Mailed: 06/29/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/09/2009.

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

/kocreasy/

---

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

PTO/SB/130 (03-08)
Approved for use through 04/30/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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# PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

## Application Information

| | | | | | |
|---|---|---|---|---|---|
| Application Number | 11/950,415 | Confirmation Number | 6511 | Filing Date | 2007-12-04 |
| Attorney Docket Number (optional) | CB07.001 | Art Unit | 3636 | Examiner | |
| First Named Inventor | Charles Blake | | | | |
| Title of Invention | ADJUSTABLE CANE WITH ENHANCED GRASPING MECHANISM, MAGNETIC PICKUP, HANGING TIP AND SELF-STANDING BASE | | | | |

**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 |
|---|---|---|---|
| Charles | | Blake | |

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 | /Mark J. Young/ | Date (YYYY-MM-DD) | 2008-04-14 |
| Name | Mark J. Young | Registration Number | 39436 |

PTO/SB/130 (03-08)
Approved for use through 04/30/2008. 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

# Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of
Charles Blake

Application No. 11950415

Filed: December 4,2007

Attorney Docket No. CB07.001

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

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS MO 63105

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Sim, et al. :
Application No. 11/950,454 : ON PETITION
Filed: December 5, 2007 :
Attorney Docket No. 15295-000007/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Application became abandoned February 21, 2008 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 20, 2007. The Notice set a two month shortened statutory period of time for reply. No extensions of time under 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 3, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s)

The instant petition fails to satisfy (1) 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 unacceptable as it fails to comply with the requirement set forth at 37 CFR 1.63(b)(3). See, also, 1327 OG 112 (Effective June 1, 2008)(the United States Patent and Trademark Office (Office) will no longer accept as complying with 37 CFR 1.63(b)(3) an oath or declaration that does not acknowledge a duty to disclose information material to patentability as defined in 37 CFR 1.56. All oaths or declarations filed on or after June 1, 2008, will be required to include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3). This notice applies to oaths or declarations filed in all nonprovisional patent applications, including reissue applications.)

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

Any renewed petition must be accompanied by a newly executed oath or declaration in compliance with 37 CFR 1.63.

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) 272-3205.

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

HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS MO 63105

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Sim, et al. :
Application No. 11/950,454 :
Filed: December 5, 2007 :
Attorney Docket No. 15295-000007/US :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 25, 2008. This is also a petition on the petition to withdraw the holding of abandonment, filed September 25, 2008.

Application became abandoned February 21, 2008 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 20, 2007. The Notice set a two month shortened statutory period of time for reply. No extensions of time under 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 3, 2008. A petition under 37 CFR 1.137(b) was filed September 10, 2008 and dismissed September 30, 2008. A petition under 37 CFR 1.181 was filed September 25, 2008. However, prior to receipt in the Office of Petitions, a decision under 37 CFR 1.137(b) was rendered on September 30, 2008.

## DECISION UNDER 37 CFR 1.181

The petition is **DISMISSED**.

Petitioners assert non-receipt of the Notice. Petitioners indicate that a search of the application file jacket and docket records for indicate that the Notice was not received. Petitioners have included a copy of docket records where the Notice would have been entered, had it been received.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt 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 instant petition does not establish non-receipt of the Notice in compliance with the procedures set forth at MPEP 711.03(c). Specifically, the petition fails to describe the system used for recording an Office action received at the correspondence address of record with the USPTO. Moreover, petitioners have seemingly acquiesced to the holding of abandonment by submitting a statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

In view thereof, the petition under 37 CFR 1.181 is hereby **DISMISSED**.

## DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition under 37 CFR 1.137(b) has been carefully reviewed in and found in compliance with the requirements of 37 CFR 1.137(b) in that petition has submitted the required reply, the required petition fee, and the required statement of unintentional delay.

In view thereof, the petition under 37 CFR 1.137(b) is hereby **GRANTED**.

The request for refund of the petition to revive fee of $1,540.00 is **DISMISSED**. Submission of the petition fee is a prerequisite prior to treatment on the merits of any petition submitted under 37 CFR 1.137(b). The petition under 37 CFR 1.137(b) was dismissed on the merits by way of decision mailed September 30, 2008. In view thereof, the request for refund is not appropriate.

This application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

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

HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS MO 63105

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DEC 22 2008
OFFICE OF PETITIONS

ON PETITION

In re Application of
Sim, et al.
Application No. 11/950,454
Filed: December 5, 2007
Attorney Docket No. 15295-000007/US

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 25, 2008. This is also a petition on the petition to withdraw the holding of abandonment, filed September 25, 2008.

Application became abandoned February 21, 2008 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 20, 2007. The Notice set a two month shortened statutory period of time for reply. No extensions of time under 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed September 3, 2008. A petition under 37 CFR 1.137(b) was filed September 10, 2008 and dismissed September 30, 2008. A petition under 37 CFR 1.181 was filed September 25, 2008. However, prior to receipt in the Office of Petitions, a decision under 37 CFR 1.137(b) was rendered on September 30, 2008.

## DECISION UNDER 37 CFR 1.181

The petition is **DISMISSED.**

Petitioners assert non-receipt of the Notice. Petitioners indicate that a search of the application file jacket and docket records for indicate that the Notice was not received. Petitioners have included a copy of docket records where the Notice would have been entered, had it been received.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt 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 instant petition does not establish non-receipt of the Notice in compliance with the procedures set forth at MPEP 711.03(c). Specifically, the petition fails to describe the system used for recording an Office action received at the correspondence address of record with the USPTO. Moreover, petitioners have seemingly acquiesced to the holding of abandonment by submitting a statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

In view thereof, the petition under 37 CFR 1.181 is hereby **DISMISSED**.

## DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The petition under 37 CFR 1.137(b) has been carefully reviewed in and found in compliance with the requirements of 37 CFR 1.137(b) in that petition has submitted the required reply, the required petition fee, and the required statement of unintentional delay.

In view thereof, the petition under 37 CFR 1.137(b) is hereby **GRANTED**.

The request for refund of the petition to revive fee of $1,540.00 is **DISMISSED**. Submission of the petition fee is a prerequisite prior to treatment on the merits of any petition submitted under 37 CFR 1.137(b). The petition under 37 CFR 1.137(b) was dismissed on the merits by way of decision mailed September 30, 2008. In view thereof, the request for refund is not appropriate.

This application is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

**Nixon & Vanderhye, PC**
**901 North Glebe Road, 11th Floor**
**Arlington, VA 22203**

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**NOV 06 2008**

In re Application of :
Alexander William Oxford et al. :
Application No. 11/950,613 : DECISION ON PETITION
Filed: December 5, 2007 : TO WITHDRAW
Attorney Docket No. 13849-5 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 15, 2008.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to B. J. Sadoff and all attorneys/agents of record has been revoked by the assignee of the patent application on October 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brinks, Hofer, Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

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SEP 17 2009

OFFICE OF PETITIONS

**Brinks, Hofer, Gilson & Lione/Ann Arbor**
**524 South Main Street**
**Suite 200**
**Ann Arbor, MI 48104**

| | | |
|---|---|---|
| In re Application of | : | |
| Alexander William Oxford et al. | : | |
| Application No. 11/950,613 | : | DECISION ON PETITION |
| Filed: December 5, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 13849-5 (PO24-USdiv) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 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 Brinks, Hofer, Gilson & Lione/Ann Arbor has been revoked by the assignee of the patent application on August 7, 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: Honigman, Miller, Schwartz & Cohn, LLP
444 West Michigan Avenue
Kalamazoo, MI 49007-3714

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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. |
|---|---|---|---|---|
| 11/950,673 | 12/05/2007 | Tomoyuki SUZUKI | NS-US075192 | 6967 |

7590 05/07/2009

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

| EXAMINER | |
|---|---|
| CHEN, SHELLEY | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3661 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/07/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment Date: 05/07/2009 BPOWELL
12/05/2007 INTEFSW 00006871 501836 11950673
02 FC:1111 510.00 CR

Adjustment date: 05/07/2009 BPOWELL
12/05/2007 INTEFSW 00006871 501836 11950673
02 FC:1111 510.00 CR

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/950,770 | 12/05/2007 | Kunifumi Nakanishi | 319353US2 | 7131 |

7590 06/17/2009

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

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

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

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/17/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 06/16/2009 BPOWELL
12/05/2007 INTEFSU 00007642 11950770
02 FC:1111 -510.00 OP

Adjustment date: 06/16/2009 BPOWELL
12/05/2007 INTEFSU 00007642 11950770
02 FC:1111 -510.00 OP

Refund Ref: 06/16/2009 00300071263

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1002

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

Mail Date: 05/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yukiya MIYACHI | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7659627 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/950,795 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **232** 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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SPANSION LLC C/O MURABITO , HAO & BARNES LLP
TWO NORTH MARKET STREET
THRID FLOOR
SAN JOSE CA 95113

MAILED

SEP 30 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Yang et al. | : | |
| Application No. 11/950811 | : | DECISION ON |
| Filing or 371(c) Date: 12/05/2007 | : | PETITION |
| Title of Invention: METHOD AND APPARATUS | : | |
| FOR HIGH VOLTAGE OPERATION FOR A | : | |
| HIGH PERFORMANCE SEMICONDUCTOR | : | |
| MEMORY DEVICE | : | |

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed August 31, 2009.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 21, 2008. Accordingly, the date of abandonment of this application is January 22, 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 and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON DC 20005

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MAR 03 2008

In re Application of :
Shiozawa, et al. :
Application No. 11/950,828 : DECISION ON PETITION
Filed: December 5, 2007 :
Attorney Docket No. ARCA:003USC1 :

This is a decision on the petition filed February 8, 2008, which is properly treated as a petition under 37 CFR 1.182 requesting that the above-identified application be accorded a filing date of December 5, 2007.

The instant application was deposited on December 5, 2007. However, the application omitted a copy of the drawings. Accordingly, on December 27, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed drawings and the instant petition on February 8, 2008. Petitioner argues that drawings were incorporated by reference pursuant to a priority claim and an explicit incorporation by reference statement.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

> For an application filed on or after September 21, 2004, if the material needed for a filing date is completely contained within a prior-filed application to which benefit is claimed, applicant may file a petition under 37 CFR 1.57(a)(3) along with the fee set forth in 37 CFR 1.17(f) and an amendment with the inadvertently omitted material requesting that the amendment be entered and the application be accorded a filing date as of the original date of deposit of the application papers. See 37 CFR 1.57(a)(3) and MPEP § 201.17. **In an application containing an explicit incorporation by reference statement in the specification or in a transmittal letter (if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182.** A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered..[1]

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.[2] Here, petitioner omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was able to be accorded at the time of filing. However, the Preliminary Amendment reveals that petitioner properly incorporated PCT application PCT/JP2005/010650 pursuant to an explicit incorporation by reference statement. In addition, petitioner has submitted the omitted drawings, paid the $400 petition fee, and submitted an

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[1] MPEP 201.06(c)(emphasis added).

[2] See id.

amendment seeking entry of the drawings. Accordingly, the above identified application is entitled to a filing date of December 5, 2007.

In view thereof, the petition is **GRANTED**.

The application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of December 5, 2007, using the application papers received in the Office on that date and the 7 drawing sheets supplied on petition filed February 8, 2008. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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OSHA LIANG LLP / CDTECH
TWO HOUSTON CENTER
909 FANNIN STREET, SUITE 3500
HOUSTON, TX 77010

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MAR 16 2010

In re Application of :
J. Yong Ryu :
Application No. 11/950,920 : DECISION GRANTING PETITION
Filed: December 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17344/121004 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on February 19, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 1793 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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jon DOUMBOS | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7585270 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/950,922 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2007 | : 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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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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MAY 02 2008

In re Application of :
Jan Van Walraven : DECISION ON PETITION
Application No. 11/950,949 :
Deposited: December 5, 2007 :
Atty Docket No. VAN WALRAVEN5 :

This is a decision on the "Petition Under 37 CFR § 1.57(a) To Add Inadvertently Omitted Items" filed March 10, 2008, requesting that the above-referenced application be accorded a filing date of December 5, 2007.

The petition is **dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Application papers in the above-identified application were deposited on December 5, 2007. However, on January 8, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant the application had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, applicant timely filed this petition. Applicant requests that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55 to a prior filed Netherlands application no. 1032991 in which the inadvertently omitted drawing figures 1-3 are found.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains … a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;
>
> (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
>
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
>
> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

It is noted that the application as filed included a claim under 1.55 for the benefit of prior-filed Netherlands application 1032991. Thus, pursuant to 1.57, the application as filed is considered to have incorporated by reference the prior filed application as to the inadvertently omitted drawings.

The instant petition includes an identification of where the inadvertently omitted drawings may be found in the prior-filed application. The petition fee has been received.

However, review of the record shows that petitioner has failed to provide an English language translation of the prior filed Netherlands application pursuant to 37 CFR 1.57(a)(1)(ii).

On renewed petition, petitioner must submit an English translation of the Netherlands application compliant with 37 CFR 1.57(a).

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

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>Customer Service Window,<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

Telephone inquiries specific to this decision should be directed to Petitions Attorney Charlema R. Grant at 571.272.3215.

Anthony Knight
Supervisor
Office of Petitions

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AUG 04 2008

**OFFICE OF PETITIONS**

In re Application of :
Jan Van Walraven : DECISION ON PETITION
Application No. 11/950,949 :
Deposited: December 5, 2007 :
Atty Docket No. VAN WALRAVEN5 :

This is a decision on the "Renewed Petition Under 37 CFR §1.57(a) To Add Inadvertently Omitted Items" filed July 2, 2008, requesting that the above-referenced application be accorded a filing date of December 5, 2007.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on December 5, 2007. However, on January 8, 2008, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant the application had not been accorded a filing date because the application was deposited without drawings pursuant to 35 USC 113.

In response, applicant timely filed this petition. Applicant requests that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55 to a prior filed Netherlands application no. 1032991 in which the inadvertently omitted drawing figures 1-3 are found.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

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

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

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

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

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

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

It is noted that the application as filed included a claim under 1.55 for the benefit of prior-filed Netherlands application 1032991. Thus, pursuant to 1.57, the application as filed is considered to have incorporated by reference the prior filed application as to the inadvertently omitted drawings.

The instant petition includes an identification of where the inadvertently omitted drawings may be found in the prior-filed application. The petition fee and the English language translation of the prior-filed application have been received.

In view thereof, the petition is **GRANTED** to the extent indicated above.

The application is being forwarded to the Office of Patent Application Processing for **according of a filing date of December 5, 2007**, using the application papers received in the Office on that date and the drawings submitted on petition filed March 10, 2008, and for indication in the records of the Office that the application contains one (1) sheet of drawings (containing figures 1-3).

Telephone inquiries specific to this decision should be directed to Petitions Attorney Charlema R. Grant at 571.272.3215.

Anthony Knight
Supervisor
Office of Petitions

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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER, NY 14604-2404

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chang-Ki Jeon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655979 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/950,959 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/05/2007 | : 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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JUL 16 2009

OFFICE OF PETITIONS

**Choate, Hall & Stewart LLP/Wyeth**
**Patent Group**
**Two International Place**
**Boston, MA 02110**

In re Application of
David C. Sek et al.
Application No. 11/950,986
Filed: December 5, 2007
Attorney Docket No. AM10265

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 **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Fangli Chen and all attorneys/agents associated with customer number 53170 has been revoked by the assignee of the patent application on June 5, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Wyeth
Patent Law Group
5 Giralda Farms
Madison, NJ 07940

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/950,986 | 12/05/2007 | David C. Sek | AM102675 |

**CONFIRMATION NO. 7523**

53170
CHOATE, HALL & STEWART LLP/WYETH
PATENT GROUP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

**POWER OF ATTORNEY NOTICE**

*OC000000036947074*

Date Mailed: 07/16/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/05/2009.

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

/kainabinet/

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

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

MAIL

FEB 05 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Shadi E. ALBOUYEH, et al.
Serial No.: 11/950,987
Filed: December 5, 2007

Title: **ERGONOMIC COMPUTER ALIGNMENT**

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 5, 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 and 5.3, 6.2 and 6.3.

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: 361/ 679, 686; and out-of-class searching is also required in class/subclasses: 341/22 and 345/168.

In addition to the search logic already employed by applicant, the examiner has also recommended that applicant include search logic for an "adjustable (splaying or split) keyboard" in the new recommended search areas; as well as in the areas previously searched. Applicant is reminded that different databases have different operators and symbols. Applicant should provide complete listings of all search logic provided in specific search areas, as well as the date the search was conducted, for each search. Please note that the above string is merely suggestive and is not all-encompassing.

Please also note that any request for reconsideration must include an updated Information Disclosure Statement citing any newly found relevant prior art and an updated Accelerated Examination Support Document (AESD) meeting all of requirements 6.1 – 6.6 for any documents uncovered by the new search(es) as required above.

In regard to the requirement in item 6.2 above, petitioner discussions pertinent teachings of each cited reference, but fails to provide a clear identification of **each** of the claimed limitations disclosed by each reference. Rather, in regard to some claims, petitioner's sweeping discussion that the reference fails to teach or suggest "all of the limitations" of some claims (see claim 2, for example) leaves one to guess if there are any aspects of claimed limitations of claim 2 which are in fact taught or disclosed by the reference. Accordingly, clarification is required. The discussion needs clarification so that each reference is clearly discussed with respect to **each** claimed limitation terminology (as opposed to comparison to all of the claimed limitations taken together).

Similarly, in regard to the requirement in item 6.3 above, in the Overall Summary section for 9(C), the petitioner has provided a detailed explanation of how the broadest, independent claims are patentable over the references. However, petitioner fails to provide detailed separate reasons for patentability in regard to **each** of the dependent claims. Therefore, it is presumed that petitioner believes that certain dependent claims stand or fall together with the independent claims from which they depend. If this is not accurate, then any request for reconsideration must provide a detailed explanation with particularity required by 37 CFR 1.111(b) and (c) in regard to ***each of the claims*** as set forth in item 6.3 above. Broad statements that none of the cited prior art teaches or discloses "all of the claimed features" of a particular claim are not sufficient.

In summary, if any request for reconsideration is filed, an updated preexamination search must be conducted as per items 5., 5.2 and 5.3 above, and the Preexamination Search Document must be amended to provide all details of all searches conducted, including: fields of searches (including class/subclasses) and the dates of the searches, and name of files and/or databases searched, and the search logic used as queries in all searches; a supplemental Information Disclosure Statement must be filed citing any newly found prior art; and the Accelerated Examination Support Document must also be amended to include the necessary reference and discussion of all newly cited prior art in accordance with all of items 6 through 6.6 above, and clarified in regard to items 6.2 and 6.3 as discussed 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 Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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

In re Application of:
Shadi E. ALBOUYEH, et al.
Serial No.: 11/950,987
Filed: December 5, 2007

Title: **ERGONOMIC COMPUTER ALIGNMENT**

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 March 5, 2008 requesting reconsideration to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). This decision is also responsive to the supplemental Information Disclosure Statement, the amended pre-examination search statement and the amended accelerated examination support document filed March 5, 2008.

All of the requirements to correct the deficiencies outlined in the petition decision mailed February 5, 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 Krista Zele, Quality Assurance Specialist, at (571) 272-3068.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin OH 43017

**MAILED**

**MAY 2 1 2010**

**OFFICE OF PETITIONS**

In re Application of
Milanovic, et al.
Application No. 11/951,019
Filed: December 5, 2007
Attorney Docket No. MTI1877-163

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed March 17, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

***As to the benefit claim under 37 CFR 1.78(a)(3)***:

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional application under 35 U.S.C. § 120 is **GRANTED.**

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for 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 applicants are 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.

***As to the benefit claim under 37 CFR 1.55(c):***

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) a nonprovisional application in the benefit chain must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

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.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicants desire 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<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By internet: | EFS-Web<br>www.uspto.gov/ebc/efs_help.html<br>(for help using EFS-Web call the<br>Patent Electronic Business Center<br>at (866) 217-9197) |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/951,019 | 12/05/2007 | 2856 | 1030 | MTI1877-163 | 15 | 1 |

**CONFIRMATION NO. 7579**

**CORRECTED FILING RECEIPT**

8698
STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

*OC000000041614772*

Date Mailed: 05/13/2010

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)**

Jelena Milanovic, Fislisbach, SWITZERLAND;
Philippe Ehrismann, Uster, SWITZERLAND;

**Assignment For Published Patent Application**

Metter-Toledo AG, Griefensee, SWITZERLAND

**Power of Attorney:** The patent practitioners associated with Customer Number 08698

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/814,280 04/01/2004 PAT 7,686,931

**Foreign Applications**

GERMANY 102006058069.9 12/07/2006

**If Required, Foreign Filing License Granted:** 01/03/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/951,019**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

INSERTION ELECTRODE DEVICE

**Preliminary Class**

073

## 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

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

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

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

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

**NOT GRANTED**

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

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**MICHAEL A. RAHMAN**
**GARDERE WYNNE SEWELL LLP**
**1601 ELM STREET, SUITE 3000**
**DALLAS TX 75201-4761**

**COPY MAILED**

SEP 1 8 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Kevin McCreary | : | DECISION ON PETITION |
| Application No. 11/951,022 | : | TO WITHDRAW |
| Filed: December 5, 2007 | : | FROM RECORD |
| Attorney Docket No. 132695-1000 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 7, 2009.

The request is **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 Chris P. Perque on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Chris P. Perque
1000 Louisiana, Suite 3400
Houston TX 77044

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**MICHAEL A. RAHMAN**
**GARDERE WYNNE SEWELL LLP**
**1601 ELM STREET, SUITE 3000**
**DALLAS TX 75201-4761**

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OCT 0 8 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kevin McCreary | : | DECISION ON PETITION |
| Application No. 11/951,022 | : | TO WITHDRAW |
| Filed: December 5, 2007 | : | FROM RECORD |
| Attorney Docket No. 132695-1000 | : | |

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 September 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Chris P. Perque on behalf of all attorneys of record who are associated with Customer No. 32914.

All attorneys/agents associated with Customer Number 32914 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
Petitions Examiner
Office of Petitions

cc: Kevin McCreary
8100 Washington Ave., Suite 110
Houston TX 77007

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**BRACEWELL & GIULIANI LLP**
**P.O. BOX 61389**
**HOUSTON TX 77208-1389**

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JAN 05 2010

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|---|---|---|
| In re Application of | : | |
| James W. Moncrief et al | : | |
| Application No. 11/951,050 | : | DECISION GRANTING PETITION |
| Filed: December 5, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 081868.000024 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 3626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and the previously filed Rule 312 amendment on December 18, 2009.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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**INTERNATIONAL BUSINESS MACHINES CORPORATION**
**RICHARD LAU**
**IPLAW DEPARTMENT / BLDG 008-2**
**2455 SOUTH ROAD - MS P386**
**POUGHKEEPSIE NY 12601**

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Goldrian et al. :
Application No. 11/951,102 : DECISION ON PETITION
Filed: December 5, 2007 :
Attorney Docket No. DE920010021US2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed September 30, 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 December 31, 2009. A Notice of Abandonment was mailed May 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2471 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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JUL 10 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Tsuneo SUZUKI, et al | : | |
| Application No. 11/951,103 | : | DECISION ON PETITION |
| Filed: December 5, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 11336/1781 (P06110US) | : | 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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SCHNECK & SCHNECK
P.O. BOX 2-E
SAN JOSE, CA 95109-0005

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MAY 15 2008

OFFICE OF PETITIONS

In re Application of :
Steven T. Kirsch :
Application No. 11/951,110 : DECISION ON PETITION
Filed: December 5, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. ABC-004 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 12, 2008, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a statement from applicant's medical examiner. 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 2161 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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JAN 28 2010

OFFICE OF PETITIONS

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

In re
Weigel, et al.
Application No. 11/951,142
Filed: December 5, 2007
Attorney Docket No. T4342-14123US01

DECISION

This is a decision on the petition to accept a fee deficiency submission under 37 CFR 1.28(c), filed November 3, 2009.

The fee deficiency submission under 37 CFR 1.28 of $765 is hereby **accepted.**

Deposit Account No. 50-1165 has been charged $765, as authorized. As there is no petition fee for a submission under 37 CFR 1.28(c), the $130 petition fee submitted has been refunded to the deposit account.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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HUSCH BLACKWELL SANDERS LLP
4801 MAIN STREET
SUITE 1000
KANSAS CITY MO 64112

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APR 14 2009

OFFICE OF PETITIONS

In re Application of
Marjean McIntyre
Application No. 11/951,159
Filed: December 5, 2007
Attorney Docket No. 59056.4

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 October 22, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Sean P. Connolly, on behalf of all attorneys of record who are associated with Customer Number 27526.

All attorneys/agents associated with the Customer Number 27526 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 outstanding Office actions that require a reply from the applicant.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARJEAN MCINTYRE
19205 HOLDREDGE STREET
EAGLE, NEBRASKA 68347

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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. |
|---|---|---|---|---|
| 11/951,217 | 12/05/2007 | Anjali R. Malladi | BUR920070136US1 (21426) | 7938 |

45601 7590 01/23/2008

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

| EXAMINER | |
|---|---|
| LAM, TUAN THIEU | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2816 | |

| 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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Suite 300
GARDEN CITY NY 11530

JAN 23 2008

| | | |
|---|---|---|
| In re Application of: | : | |
| MALLADI et al | : | DECISION ON PETITION TO |
| Serial No.: 11/951,217 | : | MAKE SPECIAL FOR NEW |
| Filed: December 5, 2007 | : | APPLICATION UNDER 37 |
| Title: SUB-PICOSECOND MULTIPHASE CLOCK GENERATOR | : | C.F.R. § 1.102 & M.P.E.P. § 708.2 |

This is a decision on the petition filed on December 5, 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

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 the all the conditions set forth in section II, subsections 5 and 6. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of section II, subsection 5.1 above, it appears the search outlined in the petition omitted critical search areas by not searching in class 327 subclasses 158-161, 231, 233-236 and 241-245 at a minimum to include signal converting, shaping or generating with synchronizing and phase shift by less than the period of input. Keyword searching utilizing: L1- (multi adj$1 phase$1 adj clock) and dll and counter and lock$3; L2 - dll and counter and lock$3; and L3 - L2 and frequency divider would be an appropriate text search. Any renewed petition should include the above outlined additional searching.

Regarding the requirements of section II, subsection 6, the support document supplied by petitioner does not satisfy the requirements set forth in subsections 6.2 and 6.3. The petition fails to identify all of the limitations in the application claims that are disclosed in the references and where the limitations are disclosed in the cited references. A grantable petition requires an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. More specifically, each reference should be discussed indicating what it discloses with respect to each of the claim limitations followed by a detailed description of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c). 37 CFR 1.111(c) states in part that "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." The support document mentions a synchronization device and a counter device but fails to discuss where these limitations are disclosed in the references. Each reference should be discussed indicating what it does disclose (i.e., data synchronizer and timing diagram of Kim (US Patent Pub. No. 2006/0045222)) and then a detailed description of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c). For these reasons, the petition does not meet the requirement of subsection 6.2.

Regarding the requirements of section II, subsection 6.3 outlined above, petitioner does not specifically point out the particular language of the claims that distinguishes over the references. The petition fails to provide a detailed explanation of how each of the claims are patentable over each of the references with particularity required by 37 CFR 1.111(b) and (c) and not merely state that the references do not disclose the claim limitations. 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims

present in view of the state of the art disclosed by the references cited or the objections made." For example, both Kim (US Patent Pub. No. 2006/0045222) and Harrison (US Patent 6,842,399) are described as teaching a sub-picosecond multi-phase lock generator comprising an N-stage delay locked loop. Petitioner then states that the references fail to teach or suggest this limitation and the other limitations which are recited in the claims. The detailed explanation clearly does not point out the patentable novelty which he or she thinks the claims present in view of the state of the art. For these reasons, the petition does not meet the requirement of subsection 6.3.

## 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.

Petition 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 inquiries 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. |
|---|---|---|---|---|
| 11/951,217 | 12/05/2007 | Anjali R. Malladi | BUR920070136US1 (21426) | 7938 |

45601 7590 03/31/2008

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

| EXAMINER | |
|---|---|
| LAM, TUAN THIEU | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2816 | |

| 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
Suite 300
GARDEN CITY NY 11530

In re Application of:
MALLADI et al.
Serial No.: 11/951,217
Filed: December 5, 2007
Title: SUB-PICOSECOND MULTIPHASE CLOCK GENERATOR

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.2

APR - 1 2008

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 21, 2008. The petition to make special under 37 C.F.R. § 1.102(d) was dismissed on Jaunary 23, 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.

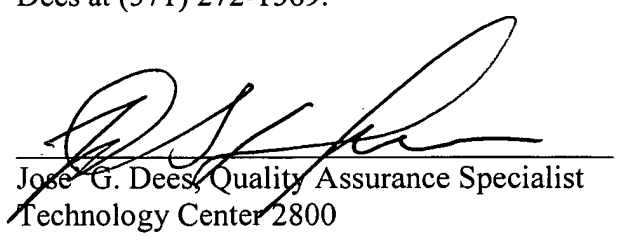
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MORRISON & FOERSTER, LLP**
**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES, CA 90013-1024**

COPY MAILED

APR 2 4 2008

In re Application of :
Khiem V. Cai et al. :
Application No. 11/951,238 : DECISION ON PETITION
Filed: December 5, 2007 : TO WITHDRAW
Attorney Docket No. 14485-03 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 February 14, 2008.

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

A review of the file record indicates that the power of attorney to David T. Yang and all attorneys/agents associated with customer number 25224 has been revoked by the assignee of the patent application on March 28, 2008. 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Roberts, Mlotkowski & Hobbes
P.O. Box 10064
McLean, VA 22102-8064

UNITED STATES PATENT AND TRADEMARK OFFICE

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**MARVELL/FINNEGAN HENDERSON LLP**
**C/O FINNEGAN, HENDERSON, FARABOW, GARNETT ET. AL.**
**901 NEW YORK AVENUE**
**WASHINGTON, DC 20001-4413**

**MAILED**

MAY 17 2010

**OFFICE OF PETITIONS**

In re Application of :
Simmons et al. :
Application No. 11/951,251 :
Filed: December 5, 2007 :
Attorney Docket: MP1632 :

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 1, 2010.

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

A review of the file record indicates that Finnegan, Henderson, Farabow, Garrett & Dunner, LLP was revoked as power of attorney by the assignee of the patent application on April 21, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVENUE
PORTLAND, OR 97204

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GUNN & LEE, P.C.
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO TX 78205

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
David Lewis :
Application No. 11/951,291 : DECISION ON PETITION
Filed: December 05, 2007 : TO WITHDRAW
Attorney Docket No. P-9027 : 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 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.

The request was signed by Paul D. Michael on behalf of all attorneys of record who are associated with Customer Number 30553.

All attorneys/agents associated with the Customer Number 30553 have been withdrawn.

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

All future correspondence will be directed to the first named inventor David Lewis at the address list listed in the request.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: David Lewis
111 Wild Rose
San Antonio TX 78209

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 |
|---|---|---|---|
| 11/951,291 | 12/05/2007 | David Lewis | P-9027 |

**CONFIRMATION NO. 8069**

**POWER OF ATTORNEY NOTICE**

30553
GUNN & LEE, P.C.
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO, TX 78205

*OC00000037589550*

Date Mailed: 08/31/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/16/2009.

- 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.

/jlburke/

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

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**D.A. STAUFFER PATENT SERVICES, LLC**
**1006 MONTFORD ROAD**
**CLEVLAND HTS. OH 44121-2016**

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JAN 28 2008

OFFICE OF PETITIONS

In re Application of :
Elmer G. Fridrich :
Application No. 11/951,317 :
Filed: December 5, 2007 :
Attorney Docket No. EF-101A1 :

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

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 5, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by attorney/agent of record on behalf of applicant Elmer G. Fridrich. 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 2879 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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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Abhaya Kumar | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7573414 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/951,348 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

13 JUL 2010

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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

| | | |
|---|---|---|
| In re Application of TAMEGAI et al | : | |
| U.S. Application No.: 11/951,408 | : | |
| PCT Application No.: PCT/JP2006/311065 | : | |
| Int. Filing Date: 02 June 2006 | : | |
| Priority Date Claimed: 06 June 2005 | : | |
| Attorney Docket No.: PRM-0113 | : | DECISION |
| For: DC/DC CONVERTER CONTROL CIRCUIT, | : | |
| AND POWER SUPPLY APPARATUS, LIGHT | : | |
| EMITTING APPARATUS AND ELECTRONIC | : | |
| DEVICE USING THE SAME | : | |

This is in response to applicant's petition under 37 CFR 1.182 filed 23 April 2010.

## BACKGROUND

On 02 June 2006, applicant filed international application PCT/JP2006/311065, which claimed priority of an earlier Japan application filed 06 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 14 December 2006. The thirty-month period for paying the basic national fee in the United States expired on 06 December 2007.

On 06 December 2007, applicant filed United States application papers via the EFS-Web electronic filing system of the USPTO.

On 08 February 2008, the USPTO mailed an official filing receipt.

On 23 April 2010, applicant filed the present petition under 37 CFR 1.182.

## DISCUSSION

The petition states that applicant intended the 06 December 2007 submission to be a national stage application under 35 U.S.C. 371 as evidenced by the application data sheet (ADS).

However, the EFS-Web Electronic Acknowledgement Receipt indicates that applicant identified the application type as "Utility under 35 USC 111(a)".

MPEP 1893.03(a) states in relevant part, "[I]f there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)." In the present case, applicant's identification of the application type as a utility application filed under 35 U.S.C. 111(a) was in conflict with and would have negated any express desire to enter the national phase. Therefore, the papers filed 06 December 2007 were properly treated as a filing under 35 U.S.C. 111(a).

U.S. statutes and regulations do not provide for a conversion of an application filed under 35 U.S.C. 111(a) to an application under 35 U.S.C. 371 and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, applicant has failed to make such a showing.

The petition alternatively requests that the application be treated as a "bypass" application with benefit under 35 U.S.C 120 to the international application. However, the present application did not contain and was not amended to contain an appropriate reference to the international application within the time period set forth in 37 CFR 1.78(a)(2). Applicant may wish to consider filing a petition under 37 CFR 1.78(a)(3) if applicable.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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. |
|---|---|---|---|---|
| 11/951,428 | 12/06/2007 | Kyong-Tae PARK | PNK-0487 | 8341 |

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
12/06/2007 INTEFSW 00006441 061130 11951428
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Technology, Patent and Licensing, Inc.**
**2003 South Easton Road**
**Suite 208**
**Doyleston, PA 18901**

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SEP 15 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Yi-Xiong Zhou | : | |
| Application No. 11/951,430 | : | DECISION ON PETITION |
| Filed: December 6, 2007 | : | TO WITHDRAW |
| Attorney Docket No. BIO-002-2 | : | FROM RECORD |
| | : | |

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 23, 2008 and June 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. 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 Andrew W. Spicer, on behalf of all attorneys/agents associated with customer number 27833. All attorneys/agents associated with customer number 27833 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: BioDiscovery, Inc.
2121 Rosecrans Avenue, Suite 3315
El Segundo, CA 90245

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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 |
|---|---|---|---|
| 11/951,430 | 12/06/2007 | Yi-Xiong Zhou | BIO-002-2 |

**CONFIRMATION NO. 8345**

**POWER OF ATTORNEY NOTICE**

27833
TECHNOLOGY, PATENTS AND LICENSING, INC.
2003 South EASTON ROAD
SUITE 208
DOYLESTOWN, PA 18901

*OC00000032066140*

Date Mailed: 09/15/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/30/2008.

- 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.

/kainabinet/

---

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

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**WARD AND SMITH, P.A.**
**1001 COLLEGE COURT**
**P.O. BOX 867**
**NEW BERN NC 28563-0867**

**MAILED**

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :

**HERNESS,** Eric N. et al. :
Application No. 11/951,434 : DECISION ON PETITION
Filed: December 06, 2007 : TO WITHDRAW
Attorney Docket No. **ROC920070496US1 (IBM 5)** : 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 23, 2009.

The request is **APPROVED**.

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

The request was signed by Edward Mills on behalf of all attorneys of record who are associated with customer No. 74342. All attorneys/agents associated with the Customer Number 74342 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Eric Herness 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: **ERIC N. HERNESS**
**4492 COUNTRY ROAD 3, S.W.**
**BYRON MN 55920**

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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**KIRTON AND MCCONKIE**
**60 EAST SOUTH TEMPLE,**
**SUITE 1800**
**SALT LAKE CITY UT 84111**

**COPY MAILED**

OCT 2 7 2008

**OFFICE OF PETITIONS**

In re Application of :
Benjamin J. TYLER :
Application No. 11/951,466 : DECISION ON PETITION
Filed: December 06, 2007 :
Attorney Docket No. **15833.3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 19, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees and Oath/Declaration, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of December 19, 2007 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 Tredelle Jackson at (571) 272-2783.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **MICHAEL F. KRIEGER**
**60 E SOUTH TEMPLE**
**1800 EAGLE GATE TOWER**
**SALT LAKE CITY UT 84111**

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

**WARD AND SMITH, PA**
**1001 COLLEGE COURT**
**P.O. BOX 867**
**NEW BERN, NC 28563-0867**

**COPY MAILED**

APR 27 2009

**OFFICE OF PETITIONS**

In re Application of :
**Qian SUN, et al.** :
Application No. 11/951,482 : DECISION ON PETITION TO
Filed: December 6, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **1342-0007** :

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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P.O. Box 1450
Alexandria, VA 22313-1450
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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA. 02110

MAILED

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OFFICE OF PETITIONS

Applicant: Carl O. Bozler
Appl. No.: 11/951,535
Filing Date: December 6, 2007
Title: MECHANICAL MEMORY TARNSISTOR
Attorney Docket: MIT.8816
Pub. No.: US 2009/0146226 A1
Pub. Date: June 11, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 19, 2009 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein the title of the invention "MECHANICAL MEMORY TRANSISTOR" is misprinted as "MECHANICAL MEMORY TARNSISTOR."

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

The instant request does not identify a mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the title. The application was published with the title provided on the Application Data Sheet (ADS). [2] The second ADS submitted by applicant to either

[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).
[2] See 37 CFR 1.76(b) and MPEP 601.

correct or update the title, which was previously submitted in an ADS was not properly submitted in compliance with 37 CFR 1.76(c).

Furthermore an error in the title is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On January 8, 2008 and February 11, 2008, Filing Receipts were mailed by the Office, which improperly listed the title of the invention. To avoid this type of problem in the future, applicant's representative should correct the error and make a request for a corrected filing receipt prior to export of the application to the publisher and publication of the application.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on June 19, 2009, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

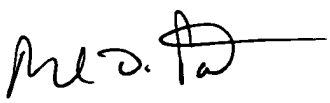
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

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

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



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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**BOZICEVIC, FIELD & FRANCIS LLP**
**1900 UNIVERSITY AVENUE, SUITE 200**
**EAST PALO ALTO, CA 94303**

**COPY MAILED**

JUN 26 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Akira TAKASHIMA, et al | : | |
| Application No. 11/951,623 | : | DECISION ON PETITION |
| Filed: December 6, 2007 | : | TO WITHDRAW |
| Attorney Docket No. SWMC-002CON | : | 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 2, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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: STEVE HIGHLANDER, PH.D
FULBRIGHT & JAWORSKI, LLP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701-2978

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. |
|---|---|---|---|---|
| 11/951,665 | 12/06/2007 | Susumu Fukuda | JP920070084US1 | 8789 |

46161 7590 01/29/2008

Cantor Colburn LLP and IBM
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

| EXAMINER |
|---|
| HUTTON JR, WILLIAM D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2176 | |

| 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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01/28/08

CANTOR COLBURN LLP AND IBM
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103-3207

In re Application of: FUKUDA, et al.
Serial No.: 11/951,665
Filed: December 06, 2007
Docket: JP920070084US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR APPLYING STYLES FROM ELEMENTS INCLUDED IN AN EXISTING PAGE

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

This is a decision on the petition filed on December 06, 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 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. 1-4, II. 1-4, 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, 5.2 , 5.3 and 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 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 claim. Note, the provision of the identified search logic provided to locate the references cited in the instant petition does not meet this requirement, in particular, based upon the claimed subject matter of the instant application, a search in the following class and subclass (classification search) 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) subclasses 205, 234-236, 239, 243, 248-250, 255 & 273 as well as class 707/ (DATA PROCESSING: DATABASE AND FILE MANAGEMENT OR DATA STRUCTURES) subclasses 101 & 104.1.

With respect to the search logic identified, with respect to the instant claim language, the search terms utilized appear be too narrow. The following supplemental search terms and their various combinations (or equivalent) should be incorporated to complete the search:
stylesheet
"markup language"
stylesheet and markup
style and markup
xhtml
dhtml
xml
inheritance
inheritance and attribute
child and parent and inherency

Finally, the following database should be included in the search document:
ACM Database

This additional recommended search area was confirmed with (and recommended by) a (primary) examiner in the pertinent art area, based upon the pending claim of the instant application.

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." The instant petition (filed December 6, 2007) repeats **substantially the entirety** of the independent claim language and identifies virtually all

limitations as those limitations that the reference(s) do not show or suggest, thus 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). The petition does not specifically recite language or limitations from the independent claim to properly compare/contrast the claimed invention with respect to the prior art in the identified references deemed to be most closely related. Petitioner is required to submit a **detailed discussion that includes identifying claim limitations with particularity for the sole independent claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference. 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. Clarification is requested.

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

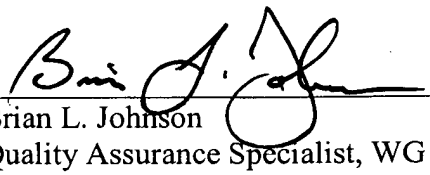
DECISION

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

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

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

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



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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/951,665 | 12/06/2007 | Susumu Fukuda | JP920070084US1 | 8789 |

46161 7590 03/27/2008

Cantor Colburn LLP and IBM
20 Church Street, 22nd Floor
Hartford, CT 06103-3207

| EXAMINER | |
|---|---|
| HUTTON JR, WILLIAM D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2176 | |

| MAIL DATE | DELIVERY MODE |
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| 03/27/2008 | 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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03/26/2008

CANTOR COLBURN LLP and IBM
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103-3207

In re Application of:
FUKUDA, et al.
Serial No.: 11/951,665
Filed: December 6, 2007
Docket: JP920070084US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR APPLYING STYLES ELEMENTS INCLUDED IN AN EXISTING PAGE

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

This is a decision on the renewed petition filed on February 28, 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 December 6, 2007 was dismissed in the decision mailed on January 29, 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.

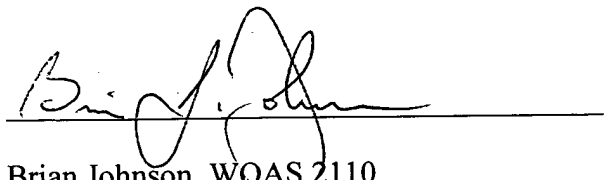
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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JUN 23 2008

In re Application of :
Jonne Jalmar Sebastian Lindeberg et al. :
Application No. 11/951,704 : DECISION ACCORDING STATUS
Filed: December 6, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. **TI-63732** :

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

The petition is **GRANTED**.

The above-identified application was filed on December 6, 2007, signed by the other two co-inventors but without the signature of joint inventor Stepan Iliasevitch. Accordingly, on January 14, 2008, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, a declaration of facts in support of filing on behalf of omitted/unavailable inventor (37 CFR § 1.47(a)) was filed. The petition argues that joint inventor Iliasevitch refuses to sign the 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 petition bears proof that the application papers were sent to Mr. Iliasevitch but that to date he has not returned an executed oath or declaration. Neither has the non-signing inventor contacted the applicant regarding the oath or declaration or any matters related to the application.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEPAN ILIASEVITCH
3500 ROYAL TROOM DRIVE
PLANO, TX 75025

In re Application of
Jonne Jalmar Sebastian Lindeberg et al.
Application No. 11/951,704
Filed: December 6, 2007
For: **SYSTEM AND METHOD FOR CONTROLLING A HYSTERETIC MODE CONVERTER**

Dear Mr. Iliasevitch:

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 Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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

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Alexandria, VA 22313-1450
www.uspto.gov

Guerry L. Grune
784 Villier Court
Virginia Beach VA 23452

FEB 26 2008

In re Application of: Jones, Dennis R.
Application No.: 11/951,720
Filed: December 6, 2007
Title: USE OF IONTOPHORESIS AND ULTRASOUND TO DELIVER MELANIN OR OTHER CHROMOPHORES FOR LASER HAIR REMOVAL

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 6, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

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

**Discussion**

When referring to "the petition" herein below, the received papers under consideration include the four page PTO/SB/28 form "Petition to Make Special Under Accelerated Examination Program", the "pre-examination search document" including pages 1-3; the "accelerated examination support document" comprising pages 1-15, and an Information Disclosure Statement 1 page.

Regarding the requirements of section II element 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 606 subclasses 131, 133, class 607 subclass 88, and class 604 subclass 20. The word search appears to have missed a substantial number of the claimed limitations. As a non limiting example, it appears that lines 9-12 of claim 1 were (almost) not searched at all: "*also providing natural or synthetically derived melanin, aminolevulinic acid (ALA), hair dyes, vegetable dyes, food coloring, fabric dyes, tissue stains, shoe leather dyes, and other plant derived products including in combination or individually; flavanols, chlorophyll, carotenoids, and enzymes*". The above quotation is given as an example only. Applicant is reminded that the search has to encompass all the features of the claims giving the claims the broadest reasonable interpretation.

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

> *For each reference cited, the accelerated examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. Applicants should specify where in each of the cited references the particular claim limitations are found. This process is intended to be analogous to the analysis an examiner uses when locating a relevant prior art reference and then determining whether the reference contains the*

*claimed limitation. For each claimed limitation, the examiner would consider the disclosure of the reference and all reasonable portions in the reference where the limitation is shown. When preparing an Office Action, the examiner would correlate the limitation to the portion of reference which best characterizes the limitation. This part of the AESD is not intended to be an exhaustive listing of every conceivable subjective interpretation of how a claim limitation may read on the reference. Applicants should point out what are considered to be the relevant representations of the limitation in the reference. A limitation may be found in more than one portion of the reference and should be pointed out, yet the intention is not to have applicants point out every conceivable interpretation. The USPTO will adopt a rule of reason when evaluating this portion of the AESD. Unless the representation is so deficient that it would materially effect examination of the application (e.g., numerous instances where the limitations are not shown where applicant states they are), the representation will be deemed to be sufficient for this part of the AESD.*

First, petitioner's submission is not specific enough. With reference to Ostrow, Applicant has not addressed each one of the presently filed claims, and as a non limiting example, the following mapping (p. 10, l. 16 et seq.) is not specific enough: "*(claim 4-wherein said active transport mode comprises at least one of iontophoresis,electromagnetophoresis, sonophoresis, and photophoresis; para [0101], [0139], [0140];*". Petitioner points out some limitations of some of the claims and provides direction to areas of the prior art where the corresponding limitation may be found. The requirement of section II element 6.2 can be satisfied by listing all the presently filed claims (i.e., the claims of the instant application) and by indicating where each limitation of each one of said presently filed claims is taught (or is not taught) in each one of the cited most closely related references, by specifically indicating the element number and/or the relevant page/paragraph and line numbers. This one-to-one mapping should be performed individually, with regard to each one of the most closely related prior art that has been cited, one reference at a time.

Similarly, with respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how each one of the claims is patentable over (each of) the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim from each piece of prior art cited. General statements that the claims are neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. In the instant petition, applicant discusses in general terms how his application defines over all the references cited on the IDS. The requirement of section II element 6.3 can be satisfied by listing all the presently filed claims (i.e., the claims of the instant application) and by indicating which specific limitation(s) in each one of said presently filed claims define(s) over each one of the most closely related reference that has been cited. With regard to each dependent claim, there should be an unequivocal statement whether the patentability of each dependent claim is predicated solely on that of the claim from which it

depends, or Applicant should provide a detailed explanation of patentability specific to that particular claim. This patentability showing should be performed individually, with regard to each one of the most closely related prior art that has been cited, one reference at a time.

For these reasons, the petition does not meet the requirement of section II, element 6.3. As a courtesy clarification, it has been noted that Applicant discussed the patentability of the claimed invention with regard to all the references cited in the IDS (as distinguished from addressing the patentability only with regard to the most closely related references). In this respect, Applicant's attention is drawn to the following answer to "Frequently Asked Questions" posted on the USPTO website:

***IDS 3.*** *Will the Office accept an accelerated examination support document (AESD) that contains a list of references in the information disclosure statement (IDS) of the AESD, but does not include any identification and explanation for those references that are not required to be submitted in the IDS of the AESD (i.e., references that are not most closely related to the subject matter of each of the claims)?*

*No, the AESD will be deemed insufficient for lack of identification and explanation. The applicant will be notified of the defects and the application will remain in the status of a new application awaiting action in its regular turn. The applicant will be given a time period of one month, without any extension of time under 37 CFR §1.136(a), to perfect the petition.*

*If applicant wishes to cite references that are not required in an AESD for the examiner to consider, applicant may submit such references in a separate IDS in compliance with 37 CFR §1.97 and §1.98. Applicant should clearly identify the IDS of the AESD that is in support of the petition to make special and, similarly, applicant should clearly identify the separate IDS that is not in support of the petition. Consistent with 37 CFR §10.18, any reference submitted in a separate IDS that is not part of an AESD will be treated as a representation by applicant to the USPTO that no reference submitted in the separate IDS is deemed closer to the subject matter of at least one claim than the references provided in the AESD.*

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

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. The instant petition only identifies figures and portions of text with respect to claim numbers as opposed to the required claim limitations. The requirement of section II element 6.5 can be satisfied by listing all the presently filed claims and by indicating where his/her own application teaches each limitation in each one of said presently filed claims, by indicating the element number and/or the relevant page and line numbers. Applicant's attention is also drawn to the requirements relevant under 35 U.S.C 112, 6$^{th}$ paragraph, listed

above. Should this requirement not apply to the present application, Applicant should make a statement in this regard.

Finally, regarding the requirements of section II element 6.6, the petition does not provide an identification of any cited references that may be disqualified under 35 U.S.C. 103(c), or state that no cited reference may be disqualified under 35 U.S.C. 103(c).

DECISION

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

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

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Programs Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at 571 272-1170.

Ehud Gartenberg
Special Programs Examiner
Technology Center 3700

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Guerry L. Grune
784 Villier Court
Virginia Beach VA 23452

APR 01 2008

In re Application of: Jones, Dennis R., et al.
Serial No.: 11/951,720
Filed: December 6, 2007
Title: USE OF IONTOPHORESIS AND ULTRASOUND TO DELIVER MELANIN OR OTHER CHROMOPHORES FOR LASER HAIR REMOVAL

COMMUNICATION REGARDING ORDER OF EXAMINATION

A decision dismissing the petition to make the above-identified application special for accelerated examination was mailed on February 26, 2008. The decision set a non-extendable time period of one month or 30 (thirty) days, whichever is longer, from its mailing date to correct the deficiency/deficiencies in the petition.

As of March 26, 2008, the expiry of the period set, neither a reply nor a renewed petition was received. Accordingly, the application is no longer eligible for the accelerated examination program.

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

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

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

Ehud Gartenberg, Special Program Examiner
Technology Center 3700

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sung-Hee HWANG | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606125 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/951,741 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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MAR 0 8 2010

OFFICE OF PETITIONS

**SCHWEGMAN, LUNDBERG & WOESSNER, P.A.**
**P.O. Box 2938**
**Minneapolis, MN 55402**

| | | |
|---|---|---|
| In re Application of | : | |
| Sean Kane, et al. | : | |
| Application No. 11/951,835 | : | DECISION ON PETITION |
| Filed: December 6, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 2537.001US1 | : | 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 Elena Dreszer 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 November 13, 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: **GetListed, Inc.**
**3681 Overpark Road**
**San Diego, CA 92130**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/951,835 | 12/06/2007 | Sean Kane | 2537.001US1 |

**CONFIRMATION NO. 9127**

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

**POWER OF ATTORNEY NOTICE**

*OC000000040470742*

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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OCT 27 2009

OFFICE OF PETITIONS

Paper No.

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Patent No. 7,469,940 :
Issue Date: December 30, 2008 :
Application No. 11/951,839 :
Inventor: Sun et al. : DECISION ON PETITION
Filed: December 6, 2007 : PURSUANT TO
Attorney Docket No. P33369 : 37 C.F.R. § 1.182
Title: DISCHARGE LAMP LIGHTING :
DEVICE, LIGHTING SYSTEM AND :
METHOD :

This is a decision on the petition filed on July 22, 2009, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 11/951,839 matured into U.S. Patent No. 7,469,940 on December 30, 2008. The electronic records further reveal that on that same date, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, contending that the Letters Patent has been lost. Receipt of the petition fee is acknowledged.

The petition is **GRANTED**.

**The Publishing Division is directed to issue a duplicate Letters Patent.** The Publishing Division (which may be reached at 571-272-4200) will be made aware of this decision in due course.

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 Petitioner's further action(s).

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OSLER, HOSKIN & HARCOURT LLP (U. DE SHERBROOKE)
1000 DE LA GAUCHETIERE STREET WEST
SUITE 2100
MONTREAL, QC H3B-4W5
CANADA

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Benoit BEAUDRY | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614103 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/951,840 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 6/11/09

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/951849 Patent No.: 7514945 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D62-B**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
**703-756-1591**

**Thank You For Your Assistance**

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

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

**Comments:** _____

_____

_____

_____

_____

H Nguyen
**SPE**

2829
**Art Unit**

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**GONZALES PATENT SERVICES**
**4605 CONGRESS AVE. NW**
**ALBUQUERQUE, NM 87114**

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of :
Andrew S. Van Luchene :
Application No. 11/951,851 :
Filed: December 6, 2007 :
Attorney Docket No. 3203201 :

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 Customer Number provided was incorrect. 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.

Alicia Kelley
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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Armstrong Teasdale LLP (IGT - 26668)
Robert B. Reeser, III
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/14/2010

| | | |
|---|---|---|
| **Applicant** | : Jon P. Mittler | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7658445 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/09/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/951,862 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

10 JUL 2008

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

In re Application of:
HEADLEY, Weston, P., et al.
U.S. Application No.: 11/951,864
Receipt Date: December 06, 2007
Attorney Docket No.: 20004/243-US
For: METHODS AND APPARATUS FOR COLLECTING MEDIA CONSUMPTION DATA BASED ON USAGE INFORMATION

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This decision is issued in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed December 06, 2007. Applicants have paid the required petition fee.

## BACKGROUND

On June 02, 2005, applicant filed international application PCT/US2005/019389. The application did not claim an earlier priority date. The United States was designated. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., December 02, 2007.

A request for entry into the U.S. national stage and payment of the basic national fee was not submitted prior to December 02, 2007. Accordingly, international application PCT/US2005/019389 became abandoned with respect to the United States at midnight on December 02, 2007 (see 35 U.S.C. 371(d); 37 CFR 1.495(h)).

On December 06, 2007, applicants filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/US2005/019389, accompanied by the petition for revival considered herein.

## DISCUSSION

The present petition was accompanied by payment of the required petition fee, and the filing of the present continuation application under 35 U.S.C. 111(a) is accepted as the "required reply" under 37 CFR 1.137(b) (see MPEP section 711.03(c)(II)(A)). In addition, the petition includes a statement explaining the delay herein and asserting that "the entire delay in filing the

required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the international application as to the United States is appropriately granted.

International application PCT/US2005/019389 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/951,864.

## CONCLUSION

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

International application PCT/US2005/019389 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/951,864.

This application is being referred to the Office of Initial Patent Examination (OIPE) for further processing in accordance with this decision.

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

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**LAW OFFICES OF LARRY K. ROBERTS, INC.**
**2 PARK PLAZA, SUITE 300**
**IRVINE, CA 92614**

**COPY MAILED**

JAN 0 8 2008

**OFFICE OF PETITIONS**

In re Application of :
**HEWITT**, John T. :
Application No. 11/951,865 : DECISION ON PETITION
Filed: December 6, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **1906.1** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the statement of inventor John T. Hewitt, 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

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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** | : Hajime Kando | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623009 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/951,869 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/06/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

JUL 31 2008

| | |
|---|---|
| In re Application of: STORM<br>Serial No.: 11/951,875<br>Filed: December 6, 2007<br>Title: INDUCTION DRIVEN IGNITION 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 May 23, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application.

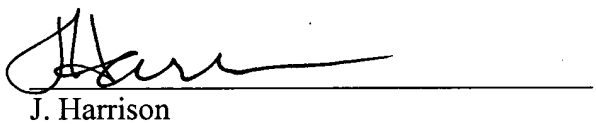
As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice.

The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. Notably, special status based upon categories such as conservation of energy resources are no longer available. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review.

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

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.



J. Harrison
Special Program Examiner
Technology Center 3700

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CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
Roger J. Talish, et al. :
Application No. 11/951,876 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 1429-64 CIP : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 9, 2009.

The request is **APPROVED**.

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

The request was signed by David M. Carter on behalf of all attorneys of record who are associated with customer No. 31554. All attorneys/agents associated with the Customer Number 31554 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

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

cc: ROGER J. TALISH
5 HARMAN COURT
HILLSBOROUGH, NJ 08844

cc: JUVENT, INC.
300 ATRIUM DRIVE
SUITE 210
SOMERSET, NJ 08873

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/951,876 | 12/06/2007 | Roger J. Talish | 1429-64 CIP |

**CONFIRMATION NO. 9201**

**POWER OF ATTORNEY NOTICE**

31554
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

Date Mailed: 05/15/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/09/2009.

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

/amwise/

---

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

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**4605 CONGRESS AVE. NW**
**ALBUQUERQUE, NM 87114**

**MAILED**

NOV 23 2009

OFFICE OF PETITIONS

In re Application of :
Andrew S. Van Luchene :
Application No. 11/951,896 :
Filed: December 6, 2007 :
Attorney Docket No. 3207101 :

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 Customer Number provided was incorrect. 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

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**ALBUQUERQUE, NM 87114**

| | | |
|---|---|---|
| In re Application of | : | |
| Andrew S. Van Luchene | : | DECISION ON PETITION |
| Application No. 11/951,896 | : | TO WITHDRAW |
| Filed: December 6, 2007 | : | FROM RECORD |
| Attorney Docket No. 3207101 | : | |

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 and supplemented on April 27, 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 Ellen Gonzales, on behalf of all practitioners of record associated with Customer Number 52297.

Customer Number 52297 has been withdrawn as attorney of record. 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 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ANDREW VAN LUCHENE
1012 MARQUEZ PL. # 205A
SANTA FE, NM 87505

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/951,896 | 12/06/2007 | Andrew S Van Luchene | 3207101 |

**CONFIRMATION NO. 9233**

52297
GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

**POWER OF ATTORNEY NOTICE**

*OC000000042049160*

Date Mailed: 06/11/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2010.

- 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.

/atkelley/

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

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**HARMAN – BRINKS HOFER CHICAGO**
**BRINKS HOFER GILSON & LIONE**
**P.O. BOX 10395**
**CHICAGO, IL 60610**

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JUL 0 9 2009

**OFFICE OF PETITIONS**

In re Application of :
Lars KONIG, et al :
Application No. 11/951,904 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 11336/1782 (P07024US) : 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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**PILLSBURY WINTHROP SHAW PITTMAN, LLP**
**P.O. BOX 10500**
**MCLEAN VA 22102**

In re Application of :
**VANDELL,** Victor E. :
Application No. 11/951,907 : DECISION ON PETITION
Filed: December 06, 2007 : TO WITHDRAW
Attorney Docket No. **016795-0366842** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 21, 2007.

The request is **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 Jack Barufka on behalf of all attorneys of record who are associated with customer No. 00909. 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 inventor Victor Vandell at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VICTOR E. VANDELL**
**414 TATUM AVENUE**
**WILMINGTON, DE 19805**

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| In re Application of | : | |
| Andrew S. Van Luchene | : | DECISION ON PETITION |
| Application No. 11/951,923 | : | TO WITHDRAW |
| Filed: December 6, 2007 | : | FROM RECORD |
| Attorney Docket No. 3207102 | : | |

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

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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**GONZALES PATENT SERVICES**
**4605 CONGRESS AVE. NW**
**ALBUQUERQUE, NM 87114**

**MAILED**

APR 2 8 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Andrew S. Van Luchene | : | DECISION ON PETITION |
| Application No. 11/951,923 | : | TO WITHDRAW |
| Filed: December 6, 2007 | : | FROM RECORD |
| Attorney Docket No. 3207102 | : | |

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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United States Patent and Trademark Office
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JUN 0 2 2008

OFFICE OF PETITIONS

**FISH & RICHARDSON, P.C.**
**225 FRANKLIN STREET**
**BOSTON, MA 02110**

In re Application of :
Todd WHITEHURST, et al :
Application No. 11/951,987 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 06-01611-01 : 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 February 19, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bryant R. Gold and Laura Haburay Bishop do not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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In re Application of :
Andrew S. Van Luchene :
Application No. 11/951,990 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 3207103 : 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 requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

It should also be noted that the request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

**GONZALES PATENT SERVICES**
**4605 CONGRESS AVE. NW**
**ALBUQUERQUE NM 87114**

In re Application of :
Andrew S. Van Luchene :
Application No. 11/951,990 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 3207103 : FROM RECORD
:

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

The request is **APPROVED**.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew Van Luchene
1012 Marquez Pl. #205A
Santa Fe, NM 87505

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/951,990 | 12/06/2007 | Andrew S. Van Luchene | 3207103 |

**CONFIRMATION NO. 9394**

52297
GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

**POWER OF ATTORNEY NOTICE**

*OC000000041549129*

Date Mailed: 05/10/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/01/2010.

- 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.

/kainabinet/

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

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**GONZALES PATENT SERVICES**
**4605 CONGRESS AVE. NW**
**ALBUQUERQUE NM 87114**

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Andrew S. Van Luchene :
Application No. 11/951,994 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 327104 : 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 requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

It should also be noted that the request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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MAY 10 2010

OFFICE OF PETITIONS

**GONZALES PATENT SERVICES**
**4605 CONGRESS AVE. NW**
**ALBUQUERQUE NM 87114**

In re Application of :
Andrew S. Van Luchene :
Application No. 11/951,994 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 3207104 : FROM RECORD
:

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

The request is **APPROVED**.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Andrew Van Luchene
1012 Marquez Pl. #205A
Santa Fe, NM 87505

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/951,994 | 12/06/2007 | Andrew S. Van Luchene | 3207104 |

**CONFIRMATION NO. 9405**

**POWER OF ATTORNEY NOTICE**

52297
GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

Date Mailed: 05/10/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/01/2010.

- 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.

/kainabinet/

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

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MAY 17 2010

OFFICE OF PETITIONS

**GONZALES PATENT SERVICES**
**4605 CONGRESS AVE. NW**
**ALBUQUERQUE, NM 87114**

In re Application of
Andrew S. Van Luchene
Application No. 11/952,004
Filed: December 6, 2007
Attorney Docket No. 3207105

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 and supplemented on April 1, 2010 and April 26, 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 Ellen Gonzales, on behalf of the practitioners of record associated with Customer Number 52297.

Customer Number 52297 has been withdrawn as attorney of record. 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 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: ANDREW VAN LUCHENE
1012 MARQUEZ PL. #205A
SANTA FE, NM 87505

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/952,004 | 12/06/2007 | Andrew S. Van Luchene | 3207105 |

**CONFIRMATION NO. 9425**

52297
GONZALES PATENT SERVICES
4605 CONGRESS AVE. NW
ALBUQUERQUE, NM 87114

**POWER OF ATTORNEY NOTICE**

*OC000000041646226*

Date Mailed: 05/17/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2010.

- 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.

/atkelley/

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

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**KIRKPATRICK & LOCKHART**
**PRESTON GATES ELLIS LLP**
**1900 Main Street, Suite 600**
**Irvine, CA 92614-7319**

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of
Jill D. Fabricant
Application No. 11/952,024
Filed: December 6, 2007
Attorney Docket No. 1503-007

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 22, 2009.

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

A review of the file record indicates that the power of attorney to Kirkpatrick & Lockhart Preston Gates Ellis LLP has been revoked by the inventor of the patent application on November 24, 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: **HEDMAN & COSTIGAN P.C.**
**1185 Avenue of the Americas**
**New York, NY 10036**

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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/952,031 | 12/06/2007 | David A. George | YOR920070167US1(21050) | 9481 |

48233 7590 01/29/2008

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 |
|---|---|
| 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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United States Patent and Trademark Office
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Scully, Scott, Murphy, & Presser, P.C.
400 Garden City Plaza-Suite 300
Garden City, NY 11530

In re Application of: George et al.
Serial No.: 11/952,031
Filed: December 6, 2007
Docket: **YOR920070167US1(21050)**
Title: **METHOD AND APPARATUS FOR AN IN-CONTEXT AUTO-ARRANGABLE USER INTERFACE**

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 6, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.3, II.6.2, 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, specifically II.5.1 and 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 item II.5.1 and 5.2 above, the claims are drawn to presenting icons based on user context, and hence **Class 715/Subclass 708: Context Sensitive** should have been included in the search.

Regarding item II.6.1, the IDS submitted does not list the reference, Marcjan, U.S. Patent Application Publication No. 2004/0255253, which is one of the most closely related references per applicant.

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

It is assumed that after the supplemental search is completed new references will be found that better read on the claimed invention and will be properly analyzed in the Support Document included with any renewed petition.

## DECISION

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

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

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of

the instant petition, examination may not be completed within twelve months of the filing date of the application.

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

Mano Padmanabhan
WQAS Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/952,031 | 12/06/2007 | David A. George | YOR920070167US1(21050) | 9481 |

48233 7590 05/09/2008

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 |
|---|---|
| 05/09/2008 | 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: George et al.
Serial No.: 11/952,031
Filed: December 6, 2007
Docket: **YOR920070167US1(21050)**
Title: **METHOD AND APPARATUS FOR AN IN-CONTEXT AUTO-ARRANGABLE USER INTERFACE**

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 February 28, 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 December 6, 2007, was dismissed in the decision mailed on January 29, 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 Mano Padmanabhan at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100
Computer Architecture, Software, and Information Security

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P.O. Box 1450
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**Sun Microsystems, Inc.**
**c/o Darby & Darby P.C.**
**P.O. Box 770**
**Church Street Station**
**New York, NY 10008-0770**

COPY MAILED

JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Darrin Paul Johnson et al. :
Application No. 11/952,037 : DECISION ON PETITION
Filed: December 6, 2007 : TO WITHDRAW
Attorney Docket No. 20910/0205977-US0 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by John W. Branch on behalf of all attorneys/agents associated with customer number 62663. All attorneys/agents/associated with customer number 62663 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 first named signing inventor. A courtesy copy of this decision will be mailed to 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.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Osha Liang, LLP/Sun
1221 McKinney, Suite 2800
Houston, TX 77010

cc: Darrin Paul Johnson
2407 Cottle Avenue
San Jose, CA 95125

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/952,037 | 12/06/2007 | Darrin Paul Johnson | 20910/0205977-US0 |

**CONFIRMATION NO. 9492**

**POWER OF ATTORNEY NOTICE**

62663
Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

Date Mailed: 06/02/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/21/2008.

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

/kainabinet/

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/952,048 | 12/06/2007 | Ghulam Hasnain | 54819 | 9507 |

7590 02/24/2010

The Law Offices of Calvin B. Ward
Suite 305
18 Crow Canyon Court
San Ramon, CA 94583

| EXAMINER | |
|---|---|
| WARD, ERIC A | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2891 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/24/2010 | PAPER |

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

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

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The Law Offices of Calvin B. Ward
Suite 305
18 Crow Canyon Court
San Ramon CA 94583

| | | |
|---|---|---|
| In re Application of | : | |
| HASNAIN et al. | : | DECISION ON PETITION |
| Application No. 11/952,048 | : | TO MAKE SPECIAL UNDER |
| Filed: 06 December 2007 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. 54819 | : | PILOT PROGRAM |

This is a decision on the petition under 37 CFR 1.102, filed 21 January 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

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

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2891 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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**Schlumberger Technology Corporation/Osha Liang**
**Mr. Bryan Galloway, Managing IP Counsel**
**5599 San Felipe, Suite 100**
**HOUSTON TX 77056**

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Kashif Rashid et al. :
Application No. 11/952,069 : DECISION ON PETITION
Filed: December 6, 2007 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 09469/116002;94.0132-CIP2 :

This is a decision on the petition under 37 CFR 1.78(a)(5), filed November 21, 2008, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

The petition lacks item (3). 37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. No such statement was provided with the petition.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) including a proper statement of unintentional delay is required.

As authorized, the $1,410 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 50-0591.

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

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

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

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

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

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**Schlumberger Technology Corporation/Osha Liang**
**Mr. Bryan Galloway, Managing IP Counsel**
**5599 San Felipe, Suite 100**
**HOUSTON TX 77056**

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Kashif Rashid et al. :
Application No. 11/952,069 :
Filed: December 6, 2007 :
Attorney Docket No. 09469/116002;94.0132- :

CORRECTED DECISION ON PETITION

This is a corrected decision on the Petition Under 37 CFR 1.78(a)(5) filed November 21, 2008.

The petition is **DISMISSED** as moot.

The petition was filed under 37 CFR 1.78(a)(5) to claim the benefit of the filing date of provisional application SN 60/968,034. However, a petition is not required for a timely claim for benefit of priority.

The petition decision mailed February 17, 2009 indicates the petition under 37 CFR 1.78(a)(5) filed November 21, 2008 was treated as a petition filed under 37 CFR 1.78(a)(6) and was dismissed as failing to provide the required statement of unintentional delay. However, the petition was filed under section (a)(5) not (a)(6) and no statement of unintentional delay is required.

The petition fee of $1,410 will be refunded to petitioner's deposit account.

The request for acceptance of a claim for benefit under 37 CFR 1.78(a)(5) is accepted.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

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

David Bucci
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/952,069 | 12/06/2007 | 3672 | 2670 | 09469/116002;94.0132-CIP2 | 25 | 9 |

**CONFIRMATION NO. 9570**

**CORRECTED FILING RECEIPT**

55346
Schlumberger Technology Corporation/Osha Liang
Mr. Bryan Galloway, Managing IP Counsel
5599 San Felipe, Suite 100
HOUSTON, TX 77056

*OC00000035000387*

Date Mailed: 03/13/2009

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)**

Kashif Rashid, Hounslow, UNITED KINGDOM;
Andrew Shand, Abingdon, UNITED KINGDOM;
Trevor Tonkin, Cochrane, CANADA;
Luca Letizia, Abingdon, UNITED KINGDOM;
Andrew John Howell, Calgary, CANADA;
Daniel Lucas-Clements, Nr Faringdon, UNITED KINGDOM;

**Assignment For Published Patent Application**

SCHLUMBERGER TECHNOLOGY CORPORATION, Houston, TX

**Power of Attorney:** The patent practitioners associated with Customer Number 55346

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/711,373 02/27/2007
which claims benefit of 60/873,429 12/07/2006
This application 11/952,069
claims benefit of 60/968,034 08/24/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/952,069**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

METHOD FOR PERFORMING OILFIELD PRODUCTION OPERATIONS

**Preliminary Class**

166

## 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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ALEXANDRIA, VA 22313-1450

Schlumberger Technology Corporation/Osha Liang
Mr. Bryan Galloway, Managing IP Counsel
5599 San Felipe, Suite 100
HOUSTON TX 77056

MAILED

JUN 26 2009

OFFICE OF PETITIONS

Applicant: Rashid et al.
Appl. No.: 11/952,069
Filing Date: December 6, 2007
Title: METHOD FOR PERFORMING OILFIELD PRODUCTION OPERATIONS
Attorney Docket No.: 09469/116002;94.0132-CIP2
Pub. No.: US 2008/0140369 A1
Pub. Date: June 12, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 12, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material error in containing "LANDMRK" rather than "LANDMARK", an html address containing "softwarelindex" rather than "software/index", and various mistranscriptions of subscripts, greek letters, symbols, and punctuation marks.

The request is DISMISSED.

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

The error of "LANDMRK" is not a material error, since it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error of "softwarelindex" is not a material error, since it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an

[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 may seek to enforce upon issuance of a patent. As stated in MPEP 608.01(VII), the attempt to incorporate subject matter into the patent application by reference to a hyperlink and/or other forms of browser-executable code is considered to be an improper incorporation by reference. See 37 CFR 1.57(d) and MPEP § 608.01(p). Since such a hyperlink is not allowed in application, error in its publication is not a material Office mistake.

The errors due to mistranscriptions of subscripts, greek letters, symbols, and punctuation marks are, in this case, not Office error. The errors are due to the quality of the text, which is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(1). As set forth at MPEP 1121, "applications with poor quality text, which may be acceptable for scanning and examination purposes, may lead to errors in the patent application publication. Correction of these errors and inclusion of any desired amendments into the text of the originally-filed specification and drawings will only occur if applicant files a request for republication under 37 CFR 1.221(a). They will not be corrected by the Office in a corrected publication under 37 CFR 1.221(b)."

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is very small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

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

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

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

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

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

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

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

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Sue Funk
SECO Manufacturing Company, Inc.
935 Stewart Drive
Sunnyvale, CA 94085

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Stephen B. Crain | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7669342 | : RECALCULATION of PATENT |
| **Issue Date** | : 03/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/952,179 | : OF WYETH |
| **Filed** | : 12/07/2007 | : |
| | | : |

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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HEAD JOHNSON & KACHIGIAN
228 W. 17TH PLACE
TULSA, OK 74119

**COPY MAILED**

JUN 16 2009

**OFFICE OF PETITIONS**

In re Application of :
Gerald J. Grivna :
Application No. 11/952,197 : ON PETITION
Filed: December 7, 2007 :
Attorney Docket No. GRI225-00/07311/CLW

This is a decision on the petition, filed June 15, 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 May 29, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

This matter is being referred to Technology Center AU 3617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Gerald J. Grivna | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614928 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/952,197 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **18** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**BRADLEY ARANT ROSE & WHITE LLP**
**200 CLINTON AVE. WEST**
**SUITE 900**
**HUNTSVILLE, AL 35801**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| William H. WALKER | : | |
| Application No. 11/952,206 | : | DECISION ON PETITION |
| Filed: December 7, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0B175-94577 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 10, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes an affidavit signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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**THE PROCTER & GAMBLE COMPANY**
**GLOBAL LEGAL DEPARTMENT - IP**
**SYCAMORE BUILDING - 4TH FLOOR**
**299 EAST SIXTH STREET**
**CINCINNATI OH 45202**

**MAILED**

**JUL 0 6 2010**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Eric S. JOHNSON et al. | : | |
| Application No. 11/952,380 | : | DECISION ON PETITION |
| Filed: December 07, 2007 | : | |
| Attorney Docket No. 8959MR4 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 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 March 09, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 08, 2009 is accepted as having been 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 1619 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Ueda :
Application No. 11/952,418 : ON PETITION
Filed: December 7, 2007 :
Attorney Docket No. KOY-0067 :
For: IMAGE FORMING APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed October 31, 2008, to withdraw the holding of abandonment in the above-identified application.

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

The Office contended that the above-identified application became abandoned for failure to reply to the January 3, 2008 Notice to File Missing Parts of Nonprovisional Application, which set a two month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on March 4, 2008. A Notice of Abandonment was mailed on September 10, 2008.

Petitioner alleges that the January 3, 2008 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

Petitioner has submitted a copy of the docket records where the requirement would have been entered had the January 3, 2008 Notice been received. In addition, practitioner referenced the

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

docket records in the petition and stated that a review of the application's file jacket and docket records for signs of the January 3, 2008 Notice was fruitless.

Petitioner has established non-receipt. The petition is **granted,** the holding of abandonment is withdrawn, and the September 10, 2008 Notice of Abandonment is **vacated**.

As petitioner has filed a reply to the January 3, 2008 Notice with the present petition, it is not necessary to re-mail the January 3, 2008 Notice. After the mailing of this decision, the application will be returned to the Office of Patent Application Processing for further pre-examination processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/952,432 | 12/07/2007 | Hideyuki YAMAKAWA | 319375US2 | 1239 |

7590 10/19/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| NGUYEN, HOA T |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/19/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
10/16/2009 0030075641

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 10/16/2009 NFARMER
12/10/2007 INTEFSW 00000090 11952432
02 FC:1111 -510.00 OP



FORM PET651G (Rev. 08/07)

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**OFFICE OF PETITIONS**

**PAUL, HASTINGS, JANOFSKY & WALKER LLP**
**875 15TH STREET, NW**
**WASHINGTON, DC 20005**

| | | |
|---|---|---|
| In re Application of | : | |
| David J. Nangle | : | DECISION ON PETITION |
| Application No. 11/952,433 | : | TO WITHDRAW |
| Filed: December 7, 2007 | : | FROM RECORD |
| Attorney Docket No. 70465.00016.UTL | : | |

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.

Alicia Kelley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/952,439 | 12/07/2007 | Kwan-Hee ROH | 0202-0040 | 1249 |

7590 02/23/2010

Jefferson IP Law, LLP
1130 Connecticut Ave., NW
Suite 420
Washington, DC 20036

| EXAMINER |
|---|
| BOST, DWAYNE D |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2617 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/23/2010 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 02/24/2010 NFARMER
12/10/2007 INTERCW 00000133 11952439
02 FC:1111 -510.00 OP



FORM PET651G (Rev. 08/07)

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

*In re* Application of:
ICHIMURA, RYUTARO
Serial No.: 11/952,504
Filed: Dec. 7, 2007
Docket: P33331
Title: GAME DEVICE, GAME ADVANCING METHOD, PROGRAM, AND RECORDING MEDIUM

: 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 Aug. 8, 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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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. |
|---|---|---|---|---|
| 11/952,523 | 12/07/2007 | Thomas Feucht | 037068.59768US | 1413 |

7590 05/07/2009

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

| EXAMINER | |
|---|---|
| PATIDAR, JAY M | |
| **ART UNIT** | **PAPER NUMBER** |
| 2862 | |
| **MAIL DATE** | **DELIVERY MODE** |
| 05/07/2009 | PAPER |

# DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 05/07/2009 BPOWELL
12/10/2007 INTEFSW 00000999 11952523
02 FC:1111 -510.00 OP

Adjustment date: 05/07/2009 BPOWELL
12/10/2007 INTEFSW 00000999 11952523
02 FC:1111 -510.00 OP

Refund Ref:
05/07/2009 0030069837

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Steven K. St. Martin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7638682 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/952,525 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/07/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **184** 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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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON TX 77253-3267

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NOV 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Wilson, et al. :
Application No. 11/952,542 : DECISION
Filed: 7 December, 2007 :
Attorney Docket No. 1041-02100 DAR :

This is a decision on the petition filed on 7 October, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

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 ) 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.

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (copy enclosed) (oath/declaration and surcharge) mailed on 3 January, 2008, with reply due absent extension of time on or before 3 March, 2008.

The application went abandoned by operation of law after midnight 3 March, 2008.

The Office mailed the Notice of Abandonment on 11 September, 2008.

On 7 October, 2008, Petitioner filed the instant petition, asserting, *inter alia*, that the Notice was not received, and averred a search of the file and non-discovery, but failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c )(I), which are, 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] (Emphasis supplied)

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[1] *See*: MPEP §711.03(c ) (I)(A).

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c )(I).

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.[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.

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.

## 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

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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).

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[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 NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/952,542 | 12/07/2007 | Dean Randal Wilson | 1041-02100 DAR |

**CONFIRMATION NO. 1448**

23505
CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

**FORMALITIES LETTER**

*OC00000027539709*

Date Mailed: 01/03/2008

# 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 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 **$65** for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this notice.

**SUMMARY OF FEES DUE:**

Total additional fee(s) required for this application is **$65** for a small entity
- **$65** Surcharge.

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.

/tcoughman/

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

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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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON TX 77253-3267

COPY MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of :
Wilson, et al. :
Application No. 11/952,542 : DECISION
Filed: 7 December, 2007 :
Attorney Docket No. 1041-02100 DAR :

This is a decision on the petition filed on 12 December, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, aver non-receipt and search with non-discovery, describe the docketing system and aver reliability, and present a copy of the docket record of the application in question and a due-date docket for the firm.

## BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice to File Missing Parts (oath/declaration and surcharge) mailed on 3 January, 2008, with reply due absent extension of time on or before 3 March, 2008.

The application went abandoned by operation of law after midnight 3 March, 2008.

The Office mailed the Notice of Abandonment on 11 September, 2008.

On 7 October, 2008, Petitioner filed the instant petition, asserting, *inter alia*, that the Notice was not received, and averred a search of the file and non-discovery, but failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c )(I), and are outlined above. Thus the petition was dismissed on 28 November, 2008.

Petitioner submitted a petition on 12 December, 2008, tracked the requirements set forth at MPEP §711.03(c )(I), and averred non-receipt and search with non-discovery, described the docketing system and averred reliability, and presented a copy of the docket record of the application in question and a due-date docket for the firm—evidencing that, should the Notice in question have been received, Petitioner's reliable docketing system would have presented the matter on both of those documents. The absence of the matter listed in those documents, Petitioner asserts, supports the averment of non-receipt.

It is noted that the record now reflects the submission of an oath/declaration and surcharge.

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 must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The 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.[2,3]

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

[2] 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).

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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 11 September, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course—it is noted once again that the record now reflects the submission of an oath/declaration and surcharge.

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 OPAPin 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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[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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. |
|---|---|---|---|---|
| 11/952,561 | 12/07/2007 | Aleksandr Uslontsev | 990050.401 | 1477 |

500 7590 02/28/2008

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

| EXAMINER | |
|---|---|
| ERB, NATHAN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3628 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/28/2008 | 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

FEB 27 2008

TECHNOLOGY CENTER 3600

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

In re application of : **DECISION ON PETITION**
Uslontsev et al. : **TO MAKE SPECIAL FOR**
Application No. 11/952,561 : **NEW APPLICATION**
Filed: December 7, 2007 : **UNDER 37 CFR 1.102**
For: METHODS AND SYSTEMS FOR PRODUCING SHIPPING LABELS

This is a decision on the petition filed on December 7, 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 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.5.2, II.6.3, and II.6.5.

Regarding Condition II.5, Applicant has not differentiated between the database services and database files searched. At present, it appears that Applicant lists database files; however, the services used to search these files are not explicitly provided. For example, USPTO *per se* is not a database service. Did Applicant search the USPTO's online version of East? Also, which database services were used to search the Derwent World Patent Index, PCT Full-Text (1978-Present), European Patents Full-Text (1978-Present), and Japanese Patent Abstracts?

As per Condition II.5.2, it is not clear when the classification search was performed. The date of classification search should be clearly stated.

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 expectation. While Applicant's searches include many good synonyms for the searched concepts, it is not evident that plurals were taken into account in the USPTO search. In the USPTO search, more word variations and greater use of truncation operators should be used. For example, the first query in the USPTO search limits the query to the word "label." Variable word endings and synonyms for "label" (such as label$3 OR manifest$1 OR address$3 OR destination$1) should have been taken into account. Also, Applicant limits many of the queries to specific phrases defined within quotation marks. This strategy does not account for intervening words within the searched words. For example, "ship label" would exclude pertinent hits such as "shipping label," "label used for shipping," etc. This concept could be more effectively searched with use of truncation and proximity operators (e.g., ship$3 NEAR5 label$4). Similar problems arise with all of the phrases searched within quotation marks. Applicant also limits many searched words to the abstract, which would prevent many relevant hits from being identified in the prior art. Most searches should allow for queried words and phrases to be found anywhere within the full text of the documents.

As per Condition II.5.2, the focus of the invention is on a scheme or protocol for facilitating shipping-related operations (including the generation of shipping labels) via a web browser. Applicant's first USPTO query requires the words browser, Web server, and scheme to be in the same document; however, this

search is overly narrow since each of these three terms implies various alternative aspects of the web-based scheme or protocol. In other words, some references might state that the scheme/protocol is implemented via a browser, while other references might similarly describe the scheme/protocol as being implemented via a Web server. Also, "scheme" is a term of art for the concept of implementing a certain programming protocol (e.g., via a web page). Consequently, browser, Web server, scheme, and other synonyms should be searched in the alternative in order to more comprehensively search for this particular claimed concept. Some other synonyms for this concept might also include protocol$1, program$4 NEAR5 standard$1, Lisp (in the area of computer programming, e.g., Lisp SAME programming), R5RS, and R6RS.

In reference to Condition II.5.2, regarding claim 1, Applicant submits that claim 1 is patentable because the prior art fails to teach or suggest at least "a uniform resource identifier having a scheme name and scheme data, the scheme name identifying a shipping protocol,...the scheme data including...post-back information" and "producing, in accordance with the shipping protocol, a shipping label by:...posting information about the producing of the shipping label...based at least in part on the post-back information." (Page 36 of the Accelerated Examination Support Document) While Applicant utilized some queries directed toward "post back," many of these queries require "post back" to be found within the same document as variations of uri, url, "uniform resource," etc.; however, Applicant's own specification explains that the post-back information "includes a URI 316 that may be used by the SLPS to provide information about the shipping label production to a code module, such as the shipment information data engine 107 (Figure 1), that is configured to track or otherwise record information about shipments that have been processed by the SLPS...The SLPS may utilize the URI 315 to provide, for example via HTTP, information about the shipping label production to the shipment information data engine." (Page 1, ¶ 34 of Applicant's specification) In other words, Applicant's queries are effectively requiring that various approaches to search the same concept be in the same document. Instead, these approaches should be searched in the alternative. For example, the post back concept could be more comprehensively searched as ((post ADJ back) OR post-back OR URI OR (uniform ADJ resource) OR URL OR UNI OR (uniform ADJ name) OR scheme$1 or protocol$1 OR http OR ((web or internet) NEAR5 address$2) OR RFC). These synonyms and analogous concepts should be searched in combination with synonyms representing the shipping concept in order to place them in a context more relevant to the field of the invention. This search would be relevant to independent claims 14 and 18 as well.

In reference to Condition II.5.2, the claimed invention in its entirety should be searched. Many of the limitations recited in the dependent claims were not reflected in the search queries either, including the following limitations (particularly the features in italics):

Claim 2: wherein the shipment information includes a *destination* shipping address, and the initiating output of the shipping label includes *printing a shipping*

*label that includes the destination shipping address.*

Claim 3: *wherein the destination shipping address is formatted as XML data, and the scheme data includes an identifier of a style sheet configured to transform the XML data into a printable destination shipping address.*

Claim 4: wherein the shipment information includes a *shipment identifier*, and wherein the initiating output of the shipping label based on the shipment information further comprises:

transmitting a request to a second code module provided by a computing system *remote and separate from the client computing system, the request including the shipment identifier*; and

receiving from the second code module a *destination shipping address* associated with the shipment identifier.

Claim 5: wherein the initiating output of the shipping label based on the shipment information comprises *printing the destination shipping address.*

Claim 6: wherein the shipment information includes a uniform resource identifier that identifies a *code module provided by a separate and remote computing system, the code module configured, when executed, to provide a destination shipping address to the shipping label module.*

Claim 7: wherein the posting information about the producing of the shipping label to the first code module includes *automatically notifying the first code module of one or more aspects of the produced shipping label.*

Claim 8: wherein the post-back information includes a uniform resource identifier that identifies the first code module, *the code module configured, when executed, to record an indication that the shipping label has been produced.*

Claim 9: wherein the post-back information specifies *one or more data items that are determined by the shipping label module, and further comprising: transmitting the one or more data items to the first code module.*

Claim 10: wherein the one or more data items include *at least one of a tracking number, a shipping cost, a shipment date, a shipment status, a parcel weight, parcel dimensions, an indicator of a shipping service, a shipment date, a shipping label print date, a transit time, shipment charges, or a shipping carrier name.*

Claim 11: wherein the Web browser is configured, when executed, to *provide the scheme data to the shipping label module automatically after receiving the uniform resource identifier and/or to provide the scheme data to the shipping label module automatically in response to a user selection of the uniform resource identifier.*

Claim 12: wherein the scheme data includes a token configured to allow the shipping label module to access the Web server, and further comprising: *transmitting the token to the Web server along with a request to obtain a destination shipping address and/or to provide information about the producing of the shipping label.*

Claim 13: wherein the post-back information includes a *first uniform resource identifier and a second uniform resource identifier*, and wherein the posting information about the producing of the shipping label to the first code module comprises:

*posting the information to a code module identified by the first uniform resource identifier when the shipping label is successfully produced; and*
*posting the information to a code module identified by the second uniform resource identifier when the shipping label is not successfully produced.*
Claim 15: wherein the *remote code module is configured to record information about shipping transactions, and wherein the communicating with the remote code module includes automatically posting information about the producing of the shipping label to the remote code module.*
Claim 16: wherein the scheme data includes a *shipment identifier*, wherein the remote code module is configured to *provide shipping addresses in response to received shipment identifiers*, and wherein the communicating with the remote code module comprises:
*transmitting the shipment identifier included in the scheme data to the remote code module; and*
*receiving from the remote code module a destination shipping address associated with the transmitted shipment identifier.*
Claim 17: wherein the computer- readable medium is at least one of a *memory in a computing device or a data transmission medium transmitting a generated signal containing the contents.*
Claim 19: wherein the shipment information includes a *second uniform resource identifier that identifies a code module, the code module configured, when executed, to provide to the shipping label module a destination shipping address.*
Claim 20: wherein the post-back information includes a *second uniform resource identifier that identifies a code module provided by the server computing system, the code module configured, when executed, to track information about shipments associated with the shipping label module.*

Without specific search queries directed toward the asserted novelties of the claimed invention (including those that Applicant implies exist for dependent claims 2, 3, 6, 8, 9, 13, 19, and 20, beyond those reasons presented for the independent claims, on page 37 of the Accelerated Examination Support Document), such assertions of patentability cannot be made with reasonable certainty.

A recommended search might be executed in all databases of East with the following search queries:

L1: ((post ADJ back) OR post-back OR URI OR (uniform ADJ resource) OR URL OR UNI OR (uniform ADJ name) OR scheme$1 or protocol$1 OR http OR ((web or internet) NEAR5 address$2) OR RFC)

L2: L1 SAME (ship$2 OR shipping OR destination$1 OR transport$3 OR transportation$1 OR mail$3 OR carrier$1 OR deliver$3)

L3: L2 AND ((print$3 OR generat$5 OR imprint$3 OR creat$4 OR affix$3 OR append$3) NEAR5 (label$4 OR address$2 OR destination$1 OR address$2 OR location$1 OR geographic$4 OR manifest$1))

L4: L3 AND (((print$3 OR generat$5 OR imprint$3 OR creat$4 OR affix$3 OR append$3) NEAR5 (label$4 OR address$2 OR destination$1 OR address$2 OR location$1 OR geographic$4)) SAME (scheme$1 OR protocol$1 OR (program$4 NEAR5 standard$1) OR Lisp OR R5RS OR R6RS))

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. The search suggestions made above should also be applied throughout all of the database services and files utilized by Applicant. For example, while Applicant uses more truncation operators in the search queries listed on pages 2-5 of the Pre-Examination Search Document, many of these queries are still too narrow since they do not account for intervening words between searched words, some of the searches are too narrowly limited to certain data fields (such as title, abstract, and claims), and synonymous and/or analogous concepts are often all required in a single query as opposed to being searched in the alternative (as discussed in reference to the USPTO search above).

Regarding Condition II.6.3, Applicant states that "dependent claims 2-13, 15-17, and 19-20 are also patentable at least by virtue of their dependencies from their respective independent claims." (Page 37 of the Accelerated Examination Support Document) It is still not clear whether Applicant submits that any of dependent claims 2-13, 15-17, and 19-20 are separately patentable beyond the limitations contained in the independent claims or if these dependent claims merely present limitations that are not further patentable over the respective independent claims. Also, Applicant makes the statement that "all of the above references fail to teach, suggest, or motivate one or more aspects of at least dependent claims 2, 3, 6, 8, 9, 13, 19, and 20. Accordingly, at least these dependent claims are independently patentable over the above references." (Page 37 of the Accelerated Examination Support Document) If Applicant asserts that claims 2, 3, 6, 8, 9, 13, 19, and 20 are further patentable over the respective independent claims, then it should be explicitly stated how and/or why each of these claims is deemed to be further patentable.

As to Condition II.6.5, the Accelerated Examination Support Document does not show where each limitation of all claims specifically finds support in the specification. While Applicant lists various excerpts for each claim, this analysis should be mapped out separately for each claim limitation within each claim.

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

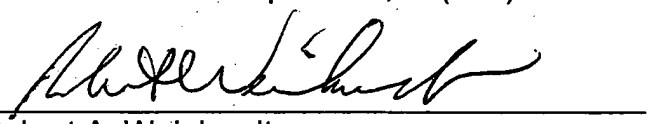
DECISION

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.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/SMD/2/14/08

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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. |
|---|---|---|---|---|
| 11/952,561 | 12/07/2007 | Aleksandr Uslontsev | 990050.401 | 1477 |

500 7590 04/10/2008

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

| EXAMINER |
|---|
| ERB, NATHAN |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3628 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/10/2008 | 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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FROM DIRECTORS OFFICE

APR 09 2008

TECHNOLOGY CENTER 3600

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

In re application of : **DECISION ON PETITION**
Uslontsev et al. : **TO MAKE SPECIAL FOR**
Application No. 11/952,561 : **NEW APPLICATION**
Filed: December 7, 2007 : **UNDER 37 CFR 1.102**
For: METHODS AND SYSTEMS FOR PRODUCING SHIPPING LABELS

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 **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.

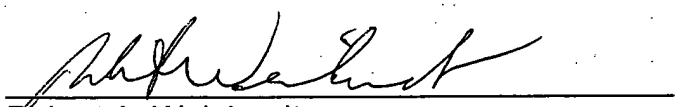
9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated 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/SMD/4/08/08

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**G. LINK CO., LTD.**
**3550 BELL ROAD**
**MINOOKA IL 60447**

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of :
Ming-Ling Ho, et al. :
Application No. 11/952,570 : ON PETITION
Filed: December 7, 2007 :
Attorney Docket No. 050201US CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 13, 2009. The Notice of Abandonment was mailed September 28, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the other applicant has not given the one signing a power of attorney.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that the petitioner's herein (Ming-Ling Ho and Chun Ping Hu) was ever given a power of attorney to act on behalf of inventor Chien-Wen Tsai, or that petitioner's Ming-Ling Ho and Chun Ping Hu are an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

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FEB 19 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ming-Ling Ho, et al. | : | |
| Application No. 11/952,570 | : | DECISION ON PETITION |
| Filed: December 7, 2007 | : | |
| Attorney Docket No. 050201US CIP | : | |

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 13, 2009. The Notice of Abandonment was mailed September 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2818 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/13/09 Paper No.: —

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/952577 Patent No.: 7544747B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (C of C)**
**Randolph Square 9D62-B**
**Palm Location 7580**

Virginia Tolbert
**Certificates of Correction Branch**
**703-756-1591**

**Thank You For Your Assistance**

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

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

**Comments:** No new matter added. Correction of obvious error

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE 1796 Art Unit

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DEC 0 1 2008

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

In re Application of
MATSUI, TAKURO
Application No. 11/952,609
Filed: December 07, 2007
Attorney Docket No. 061352-0169

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 September 15, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

It is noted that both the instant application as well as the allowed JP application JP 2007-312561 claim priority to JP 2006-330767.

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 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 at the http://www.uspto.gov/ebc/index.html.

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

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MINNEAPOLIS, MN 55402

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MAR 19 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Shigenori Aoki | : | |
| Application No. 11/952,616 | : | DECISION GRANTING PETITION |
| Filed: December 7, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 05-40090 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 16, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on February 18, 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 regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2883 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

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**BUCHANAN, INGERSOLL & ROONEY LLP**
**P.O. BOX 1404**
**ALEXANDRIA, VA 22313-1404**

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JUN 0 9 2008

In re Application of :
**BACHMAN**, Mark et al. :
Application No. 11/952,626 : DECISION ON PETITION
Filed: December 07, 2007 : TO WITHDRAW
Attorney Docket No. **1034282-000017** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed April 14, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Joseph R. Baker does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PAUL, HASTINGS, JANOFSKY & WALKER LLP**
**875 15TH STREET, NW**
**WASHINGTON, DC 20005**

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FEB 22 2010

OFFICE OF PETITIONS

**PAUL, HASTINGS, JANOFSKY & WALKER LLP**
**875 15TH STREET, NW**
**WASHINGTON DC 20005**

In re Application of :
BACHMAN, Mark et al. :
Application No. 11/952,626 : DECISION ON PETITION
Filed: December 07, 2007 : TO WITHDRAW
Attorney Docket No. **74207.00700.UTL** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 07, 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 February 05, 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: **DAVIS WRIGHT TREMAINE LLP/LOS ANGELES**
**865 FIGUEROA STREET**
**SUITE 2400**
**LOS ANGELES, CA 90017-2566**

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NOV 21 2008

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

| | | |
|---|---|---|
| In re Application of | : | |
| Takuro MATSUI | : | DECISION ON REQUEST TO |
| Application No. 11/952,632 | : | PARTICIPATE IN PATENT |
| Filed: December 07, 2007 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 061352-0168 | : | 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 29 August 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

It is noted that the instant application claims priority to JP 2006-330766, which claims priority to JP 2007-312495, the allowed application.

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 at the http://www.uspto.gov/ebc/index.html.

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

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**MILLER THOMPSON, LLP**
**SCOTIA PLAZA**
**40 KING STREET WEST, SUITE 5800**
**TORONTO ON M5H 3S1 CA**
**CANADA**

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| In re Application of | : | |
| Tom CHAU | : | |
| Application No. 11/952,658 | : | DECISION ON PETITION |
| Filed: December 7, 2007 | : | |
| Attorney Docket No. 075186-0012 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 2, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form the required fees and a declaration; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to the Office of Patent Application Processing for further processing in the normal course of business.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SILLS CUMMIS & GROSS P.C.
ONE ROCKEFELLER PLAZA
IP DEPARTMENT – 25TH FLOOR
NEW YORK NY 10020

COPY MAILED

FEB 0 3 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Harry Lander | : | |
| Application No. 11/952,662 | : | DECISION ON PETITION |
| Filed: December 7, 2007 | : | |
| Attorney Docket No. 040038U003 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed 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. A Notice of Abandonment was mailed September 4, 2008.

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 $770.00, 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
Petitioner 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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**WITHROW & TERRANOVA, P.L.L.C.**
**100 REGENCY FOREST DRIVE**
**SUITE 160**
**CARY NC 27518**

MAILED

APR 27 2010

OFFICE OF PETITIONS

In re Application of :
Dan Carey et al :
Application No. 11/952,670 : DECISION GRANTING PETITION
Filed: December 7, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2867-558A :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 23, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on March 18, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3729 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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**BRADLEY ARANT ROSE & WHITE LLP**
**200 CLINTON AVE. WEST**
**SUITE 900**
**HUNTSVILLE AL 35801**

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MAR 0 3 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| William H. Walker | : | |
| Application No. 11/952,692 | : | DECISION ON PETITION |
| Filed: December 7, 2007 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 0B175-94802 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 10, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3662 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
Abraham, et al. :
Application No. 11/952,803 : DECISION ON PETITION
Filed: December 7, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18969US03 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 18, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

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.

The rule at 37 CFR § 1.78(a)(3) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Alesia M. Brown at (571) 272-3205. 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 3662 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

for

Chris Bottorff
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/952,803 | 12/07/2007 | 3662 | 2160 | 18969US03 | 30 | 6 |

**CONFIRMATION NO. 1941**

**CORRECTED FILING RECEIPT**

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 05/24/2010

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)**

Charles Abraham, Los Gatos, CA;
Javier De Salas, Madrid, SPAIN;
David McMahan, Raleigh, NC;

**Power of Attorney:** The patent practitioners associated with Customer Number 23446

**Domestic Priority data as claimed by applicant**

This application is a DIV of 10/976,191 10/28/2004 PAT 7,327,310
which claims benefit of 60/518,180 11/07/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 12/17/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/952,803**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

METHOD AND APPARATUS FOR MANAGING TIME IN A SATELLITE POSITIONING SYSTEM

**Preliminary Class**

342

## 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. |
|---|---|---|---|---|
| 11/952,807 | 12/07/2007 | Ragheb B. Dajani | 020569-18000<br>(P207-1621-U | 1956 |

71762 7590 07/19/2010

JONES & SMITH , LLP
2777 ALLEN PARKWAY
SUITE 1000
HOUSTON, TX 77019

| EXAMINER | |
|---|---|
| TOSCANO, ALICIA | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1796 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/19/2010 | PAPER |

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Mailed: JUL 19 2010

In re application of :
Dajani et al. : DECISION ON
Serial No. 11/952,807 : PETITION
Filed: 12/07/2007 :
For: METHOD OF TREATING A WELL WITH A HYDRATABLE POLYVINYL ALCOHOL

This is a decision on a PETITION filed May 21, 2010, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center 1700 for consideration.

**DECISION**

Petitioner requests that the papers filed on May 20, 2010 be expunged.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

11/952,807

The images will be removed from the Official file.

/W. GARY JONES/
W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

John Wilson Jones
JONES & SMITH , LLP
2777 ALLEN PARKWAY
SUITE 1000
HOUSTON TX 77019

UNITED STATES PATENT AND TRADEMARK OFFICE

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**Karr Tuttle Campbell**
**ATTN: PRIYA SINHA CLOUTIER**
**1201 Third Avenue, Suite 2900**
**Seattle, WA 98101**

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| | | |
|---|---|---|
| In re Application of | : | |
| James Ng | : | |
| Application No. 11/952,877 | : | DECISION ON PETITION |
| Filed: December 7, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 150-001-07 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2009.

The request is **APPROVED**.

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **James Ng**
**5910 Meridian Avenue North**
**Seattle, WA 98103**

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/952,877 | 12/07/2007 | James Ng | 150-001-07 |

**CONFIRMATION NO. 1098**

**POWER OF ATTORNEY NOTICE**

69049
Karr Tuttle Campbell
ATTN: PRIYA SINHA CLOUTIER
1201 Third Ave., Ste 2900
Seattle, WA 98101

Date Mailed: 01/14/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/11/2009.

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

/tsjohnson/

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

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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. |
|---|---|---|---|---|
| 11/952,946 | 12/07/2007 | Hiroaki Morino | TOTOSH.018AUS | 1237 |

7590 11/05/2009

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

| EXAMINER | |
|---|---|
| NGUYEN, HOA T | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/05/2009 | 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 Farmer

Patent Publication Branch
Office of Data Management

Refund Ref: 11/05/2009 8938076445

Credit Card Refund Total: $510.00

Master C: XXXXXXXXXXXX5563

Adjustment date: 11/05/2009 NFARMER
12/10/2007 INTEFSW 00003777 11952946
02 FC:1111 -510.00 OP

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RICHMAN AND ASSOCIATES
PO BOX 3333
LA JOLLA CA 92038-3333

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OCT 2 2 2008

**OFFICE OF PETITIONS**

In re Application of :
Hoch, et al. :
Application No. 11/953,009 : ON PETITION
Filed: December 7, 2007 :
Attorney Docket No. LS006US :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 1, 2008.

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 Notice to File Missing Parts of Nonprovisional Application, mailed January 11, 2008. This Notice set an extendable period for reply of two (2) months for applicant to submit an executed oath or declaration, together with the $65 surcharge for its late filing. No reply having been received, the application became abandoned on March 12, 2008. A Notice of Abandonment was mailed on September 18, 2008.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a declaration and surcharge.

The matter 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

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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Richman and Associates
PO Box 3333
La Jolla CA 92038-3333

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MAR 0 4 2009

OFFICE OF PETITIONS

In re Application of :
HOCH et al. : DECISION ON PETITION
Application No. 11/953,010 :
Filed: 12/07/2007 :
Attorney Docket No. LS007US :

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 11, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 12, 2008. On September 18, 2008, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

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

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Office of Patent Application Processing.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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MAIL

JAN 07 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DANIEL KATZ
87 TZAHAL ST.
KIRYAT-ONO 55451 IL ISRAEL

In re Application of:
KATZ, DANIEL A
Serial No.: 11/953,054
Filed: December 9, 2007

Title: **COMMUNICATION SYSTEM FOR DATA ACQUISITION FROM REMOTE DEVICES APPLICABLE FOR AMR**

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 9, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not complete at the time of filing (a Notice to File Missing Parts was

mailed on December 17, 2007) and the application was filed with more than 3 independent claims.

For the above-stated reasons, the petition is denied. Therefore, the file will be taken up by the examiner in its regular turn.

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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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. |
|---|---|---|---|---|
| 11/953,055 | 12/09/2007 | Akihiko YOSHIOKA | XA-10637A | 1439 |

181 7590 10/16/2008

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

| EXAMINER | |
|---|---|
| LEBENTRITT, MICHAEL | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2829 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/16/2008 | 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

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**1751 PINNACLE DRIVE**
**SUITE 500**
**MCLEAN VA 22102-3833**

**In re Application of**
**Yoshioka et al.**
**Application No.: 11/953,055**
**Filed: 9 December 2007**
**Attorney Docket No.: XA-10637A**
**For: SEMICONDUCTOR DEVICE AND A METHOD OF MANUFACTURING 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 September 19, 2008, 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 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 satisfies conditions 1, 2, 4, 5, 6 and 7. However, condition 3 has not been satisfied. Specifically, claim 31 does not sufficiently correspond to claim 9 of the Japanese patent. Claim 9 from the translated Japanese application requires both types of film where claim 31 of the instant application recites one of the films.

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

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

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

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

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,055 | 12/09/2007 | Akihiko YOSHIOKA | XA-10637A | 1439 |

181 7590 11/26/2008

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

| EXAMINER | |
|---|---|
| LEBENTRITT, MICHAEL | |
| **ART UNIT** | **PAPER NUMBER** |
| 2829 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/26/2008 | 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

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**MILES & STOCKBRIDGE PC**
**1751 PINNACLE DRIVE**
**SUITE 500**
**MCLEAN VA 22102-3833**

| | |
|---|---|
| **In re Application of** | **: DECISION ON REQUEST TO** |
| **Akihiko YOSHIOKA et al.** | **: PARTICIPATE IN THE PATENT** |
| **Application No.: 11/953,055** | **: PROSECUTION HIGHWAY** |
| **Filed: 09 December 2007** | **: PROGRAM AND PETITION** |
| **Attorney Docket No.: XA-10637A** | **: TO MAKE SPECIAL UNDER** |
| **For: SEMICONDUCTOR DEVICE AND A METHOD OF MANUFACTURING THE SAME** | **: 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 September 2008 and supplemented 17 November 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

## Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:

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

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

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

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

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

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

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

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**GUERIN & RODRIGUEZ, LLP**
**5 MOUNT ROYAL AVENUE**
**MOUNT ROYAL OFFICE PARK**
**MARLBOROUGH, MA 01752**

MAILED

JAN 15 2010

OFFICE OF PETITIONS

In re Application of
Thomas P. Low et al
Application No. 11/953,070
Filed: December 9, 2007
Attorney Docket No. SRI-006CON2 (US-4581-5)

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 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed January 13, 2010, under 37 CFR § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 of the prior-filed applications set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petitions are **GRANTED**.

*As to the petition under 37 CFR 1.313(c)(2):*

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

***Petitioner is advised that the issue fee paid on January 4, 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]

*As to the petition under 37 CFR 1.78(a)(3):*

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

---

[1] *The 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.*

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2858 for appropriate action on the amendment submitted January 13, 2010, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/953,070 | 12/09/2007 | 2858 | 1010 | SRI-006CON2 (US-4581-5) | 19 | 5 |

**CONFIRMATION NO. 1472**

**CORRECTED FILING RECEIPT**

32836
GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

OC000000039690308

Date Mailed: 01/15/2010

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

**Applicant(s)**

Thomas P. Low, Belmont, CA;
C. Bruce Clark, Los Altos, CA;
Ronald E. Pelrine, Longmont, CO;
Joseph S. Eckerle, Redwood City, CA;
Chris Smith, San Carlos, CA;
Giovanni Zangari, Charlottesville, VA;

**Assignment For Published Patent Application**

SRI INTERNATIONAL, Menlo Park, CA

**Power of Attorney:** The patent practitioners associated with Customer Number 32836

**Domestic Priority data as claimed by applicant**

This application is a CON of 11/409,576 04/24/2006 PAT 7,307,418
which is a CON of 11/258,308 10/25/2005 PAT 7,034,527
which is a DIV of 10/840,781 05/06/2004 PAT 6,989,669
which claims benefit of 60/468,507 05/06/2003

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/17/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/953,070**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****
**Title**

COMPOSITIONS FOR A MAGNETICALLY HARD LAYER ON A PISTON ROD

**Preliminary Class**

324

## 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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CARLSBAD CA 92013

MAR 04 2008

In re Application of: Brady D., et al.
Application No.: 11/953,073
Filed: December 10, 2007
Title: MONITORING DEVICE, METHOD AND 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 December 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

The conditions I: 1-4, II: 1-5, 5.1, 5.3, 6, 6.1, 6.2, 6.4, and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 5.2, 6.3, and 6.5 above. Therefore,

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

**Discussion**

When referring to "the petition" herein below, the received papers under consideration include the four page PTO/SB/28 form "Petition to Make Special Under Accelerated Examination Program", the "pre-examination search document" including pages 1-9; the "accelerated examination support document" comprising pages 1-12, and an Information Disclosure Statement including form PTO/SB/08A(substitute PTO-1449 A).

Regarding the requirements of section II element 5.2 outlined above, it appears the search outlined in the petition omitted a critical search area by not searching in class 600 subclasses 479 and 501. A word search in class 600 subclasses 309 – 344 (detection of blood constituents) searching for detection of heart rate also appear on point.

Similarly, with respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how each one of the claims is patentable over (each of) the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish each claim from each piece of prior art cited. General statements that the claims are neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. In the instant petition, Applicant gave a broad and non-specific statement regarding lack of anticipation of the claimed invention by the three most closely related prior-art references cited. For these reasons, the petition does not meet the requirement of section II, element 6.3 The requirement of section II element 6.3 can be satisfied by listing the presently filed claim (i.e., the claim of the instant application) and by indicating which specific limitation(s) in said presently filed claim define(s) over each one of the most closely related references that has been cited. This patentability showing should be performed individually, with regard to each one of the most closely related prior art that has been cited, one reference at a time. The analysis under 35 U.S.C. 103(a) is accepted.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. The instant petition only identifies figures and broad paragraphs numbers as opposed to the required claim limitations. Therefore, it lacks the required specificity. The requirement of section II element 6.5 can be satisfied by listing the presently filed claim and by indicating where the instant application teaches each limitation in said presently filed claim, by indicating the element number and/or the relevant page and line numbers.

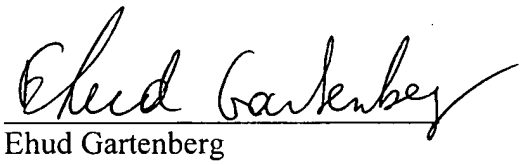
DECISION

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

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

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Programs Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at 571 272-1170.



Ehud Gartenberg
Special Programs Examiner
Technology Center 3700

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CARLSBAD CA 92013

APR 07 2008

In re Application of: Brady Donald, et al.
Application No.: 11/953,073
Filed: December 10, 2007
Title: MONITORING DEVICE, METHOD AND 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 1, 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 regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

## EAST Search History

### EAST Search History (Prior Art)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | Time Stamp |
|---|---|---|---|---|---|---|
| S2 | 10 | "4877150" | US-PGPUB; USPAT | OR | ON | 2009/07/25 09:00 |
| S3 | 19 | "5046613" | US-PGPUB; USPAT | OR | ON | 2009/07/25 09:04 |
| S4 | 1 | "5046613" | US-PGPUB | OR | ON | 2009/07/25 09:04 |
| S5 | 18 | "5046613" | USPAT | OR | ON | 2009/07/25 09:05 |
| S6 | 1 | "5046613".pn. | USPAT | OR | ON | 2009/07/25 09:05 |
| S7 | 1 | "6997313".pn. | USPAT | OR | ON | 2009/07/25 09:07 |
| S8 | 1 | "6612450".pn. | USPAT | OR | ON | 2009/07/25 09:07 |
| S9 | 1 | "6315113".pn. | USPAT | OR | ON | 2009/07/25 09:17 |
| S10 | 1 | "6783003".pn. | USPAT | OR | ON | 2009/07/25 09:19 |
| S11 | 1 | "4193496".pn. | USPAT | OR | ON | 2009/07/25 09:25 |
| S12 | 1802828 | container with slid$3 cover and rotat$4 covers | US-PGPUB; USPAT | OR | ON | 2009/07/25 09:39 |
| S13 | 229651 | portable | USPAT | OR | ON | 2009/07/25 10:25 |
| S14 | 661502 | medical container | USPAT | OR | ON | 2009/07/25 10:26 |
| S15 | 1537 | lid with rotate and slide | USPAT | OR | ON | 2009/07/25 10:26 |
| S16 | 85 | S13 and S14 and S15 | USPAT | OR | ON | 2009/07/25 10:26 |
| S17 | 1485 | 206/363 | USPAT | OR | ON | 2009/07/25 10:29 |
| S18 | 1624 | 206/363 | US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT | OR | ON | 2009/07/25 10:29 |
| S19 | 0 | "4193496" | US-PGPUB | OR | ON | 2009/07/25 10:31 |

| | | | | | | |
|---|---|---|---|---|---|---|
| S20 | 29 | "4193496" | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:31 |
| S21 | 1 | "4193496".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:31 |
| S22 | 1 | "7086133".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:32 |
| S23 | 1 | "6964336".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:34 |
| S24 | 1 | "6964336".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:44 |
| S25 | 1 | "5348549".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:51 |
| S26 | 1 | "5494158".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:53 |
| S27 | 1 | "5699242".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:53 |
| S28 | 0 | "5699242".pn. | US-PGPUB; USOCR | OR | ON | 2009/07/25 10:54 |
| S29 | 1 | "5699242".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:54 |
| S30 | 1 | "5938063".pn. | US-PGPUB; USPAT | OR | ON | 2009/07/25 10:54 |
| S31 | 27496 | rotat$3 with slid$3 with (top or cap or cover$3) | US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB | OR | ON | 2009/07/27 10:31 |
| S32 | 58 | (rotat$3 with slid$3 with (top or cap or cover$3)) and (206/363.ccls. or 206/366.ccls. or 29/426.3ccls. or 215/228.ccls. or 220/304.ccls.) | US-PGPUB; USPAT; USOCR | OR | ON | 2009/07/27 10:35 |
| S33 | 2 | "6612450".pn. | US-PGPUB; USPAT; USOCR; JPO; DERWENT | OR | ON | 2009/12/14 09:37 |
| S34 | 10 | "4877150" | US-PGPUB; USPAT; JPO | OR | ON | 2009/12/14 11:25 |
| S35 | 1662 | 206/363 | US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT | OR | ON | 2009/12/16 18:17 |
| S36 | 1138 | 206/366 | US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT | OR | ON | 2009/12/16 18:21 |

| | | | | | | |
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| S37 | 2 | "6612450".pn. | US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT | OR | ON | 2009/12/16 18:22 |
| S38 | 44 | ("20010035388" \| "3101856" \| "3642161" \| "3703975" \| "4029231" \| "4103797" \| "4127221" \| "4314656" \| "4393976" \| "4406376" \| "4420089" \| "4480762" \| "4511049" \| "4526281" \| "4573599" \| "4752013" \| "4854459" \| "5040694" \| "5147052" \| "5147053" \| "5316161" \| "5370251" \| "5394999" \| "5449077" \| "5566864" \| "5588545" \| "5615787" \| "5636756" \| "5740933" \| "5865330" \| "5893473" \| "5941402" \| "6029834" \| "6039196" \| "6085920" \| "6161711" \| "6439409").PN. OR ("6612450").URPN. | US-PGPUB; USPAT; USOCR | OR | OFF | 2009/12/16 18:22 |

**5/8/2010 11:39:08 AM**
**H:\ sharps disposal container with locking cover.wsp**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,186 | 12/10/2007 | Hidetoshi NAKAGAWA | 70404.224/ya | 1714 |

54072 7590 03/27/2008

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| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 2871 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/27/2008 | 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):

JKEATING@KBIPLAW.COM
uspto@kbiplaw.com

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**SHARP KABUSHIKI KAISHA**
**C/O KEATING & BENNETT, LLP**
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**SUITE 850**
**MCLEAN, VA 22102**
**UNITED STATES**

MAR 27 2008

**In re Application of**
**Hidetoshi NAKAGAWA et al.**
**Application No.: 11/953,186**
**Filed: December 10, 2007**
**Attorney Docket No.: 70404.224/ya**
**For: SUBSTRATE FOR A DISPLAY DEVICE, A METHOD FOR REPAIRING THE SAME, A METHOD FOR REPAIRING A DISPLAY DEVICE AND A LIQUID-CRYSTAL DISPLAY DEVICE**

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 12, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

## Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and

c. A statement that the English translation is accurate;

3. Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
   b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

   Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

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

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

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

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

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

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CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

FEB 27 2008

In re Application of: Williams, Luke R.
Application No.: 11/953,216
Filed: December 10, 2007
Title: GOLF CLUB HEAD

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 December 10, 2007 on to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

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

## Discussion

When referring to "the petition" herein below, the received papers under consideration include the four page PTO/SB/28 form "Petition to Make Special Under Accelerated Examination Program", the "pre-examination search document" including pages 1-4; the "accelerated examination support document" comprising pages 1-18, and an Information Disclosure Statement including form PTO/SB/08A(substitute PTO-1449 A).

With respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how the claim is patentable over (each of) the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish the claim from each piece of prior art cited. General statements that the claim is neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claim and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. In the instant petition, Applicant gave a broad and all-encompassing statement as to why the single claim in the instant application defines over the most closely related prior art references cited. For these reasons, the petition does not meet the requirement of section II, element 6.3. The requirement of section II element 6.3 can be satisfied by listing the presently filed claim (i.e., the claim of the instant application) and by indicating which specific limitation(s) in said presently filed claim define(s) over each one of the most closely related references that has been cited. This patentability showing should be performed individually, with regard to each one of the most closely related prior art that has been cited, one reference at a time. It is also noted that on p. 11, l. 7, the support document mentions seven claims, while the instant application appears to contain only one claim. The explanation related to 35 U.S.C. 103(a) is accepted.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. The instant petition only identifies figures and portions of text with respect to claim numbers as opposed to the required claim limitations. For example, the following mapping appears on p. 14, ll. 7-8: "With respect to claim 1, a wood-type golf club head including a crown, a sole and a front wall having a perimeter is described at least at paragraph [0090] and in FIGS. 1-7." This kind of mapping is too broad, because it doesn't indicate where (for example) the claimed "crown" is shown in Figure 3 (for example). The requirement of section II element 6.5 can be satisfied by listing the presently filed claim and by indicating where the instant application teaches each limitation in each one of said presently filed claim, by indicating the element number and/or the relevant page and line numbers.

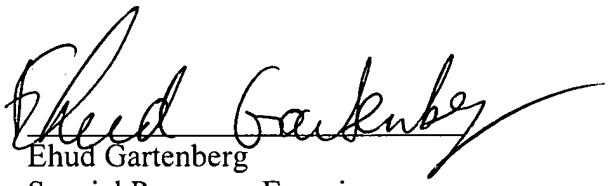
DECISION

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

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

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

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Programs Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at 571 272-1170.



Ehud Gartenberg
Special Programs Examiner
Technology Center 3700

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

CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

MAR 20 2008

In re Application of: Williams, Luke R., et al.
Application No.: 11/953,216
Filed: December 10, 2007
Title: GOLF CLUB HEAD

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 19, 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 regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

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David A. Novais
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

MAILED

MAY 04 2010

OFFICE OF PETITIONS

Applicant: Stelter, Eric C.
Appl. No.: 11/953,230
Filing Date: December 10, 2007
Title: SECURITY CUSTOMIZATION SYSTEM AND METHOD
Attorney Docket: 93946DPS
Pub. No.: US 2009/0150402 A1
Pub. Date: June 11, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 24, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains the material error of not including claim 18, which was included on page 29 of the original application.

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

The error noted by requestor with respect to failure to include claim 18 in the publication is not an Office error. The application file, as well as the original copy of the electronic submission of the application, indicates that page 29 of the originally filed application does not include claim 18. The transmittal letter included with the submission of the original application indicates 17 total claims. The filing receipt mailed by the Office on February 5, 2008 also indicates that 17

[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).

claims are pending in the application. No claim amendments have been filed in the application. Since the publication accurately reflected the claims of record in the application, the publication was not in error.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on June 24, 2009 may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

A "request for republication of an application previously published" filed under 37 CFR 1.221(a) "must include a copy of the application compliance with the Office's electronic filing system [EFS] requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." Applicant's petition does not comply with the EFS requirements. The republication will not take place and the publication fee set forth in § 1.18(d) has not been charged. The processing fee will be retained.

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

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

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

http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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

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

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United States Patent and Trademark Office
P.O. Box 1450
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**WARD AND SMITH, P.A.**
**1001 COLLEGE COURT**
**P.O. BOX 867**
**NEW BERN NC 28563-0867**

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
**BRANDA,** Steven J. et al. :
Application No. 11/953,234 : DECISION ON PETITION
Filed: December 10, 2007 : TO WITHDRAW
Attorney Docket No. **ROC920070532US1 (IBM 10)** : 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 23, 2009.

The request is **APPROVED**.

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

The request was signed by Edward Mills on behalf of all attorneys of record who are associated with customer No. 74342. All attorneys/agents associated with the Customer Number 74342 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 Steven J. Branda 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: **STEVEN J. BRANDA**
**4793 MANOR POINT LANE N.W.**
**ROCHESTER MN 55901**

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NIXON PEABODY LLP – PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

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FEB 0 2 2009

**OFFICE OF PETITIONS**

In re Application of :
Erik R. Swenson :
Application No. 11/953,249 :
Filed: December 10, 2007 :
Attorney Docket No. 34186/1041 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 Notice To File Missing Parts of Nonprovisional Application (Notice) mailed February 12, 2008. 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 above-identified application became abandoned on April 13, 2008.

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

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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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 |
|---|---|---|---|
| 11/953,249 | 12/10/2007 | Erik R. SWENSON | 34186/1041 |

**CONFIRMATION NO. 1838**

**POWER OF ATTORNEY NOTICE**

26774
NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Date Mailed: 01/28/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/07/2009.

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

/idingle/

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

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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 |
|---|---|---|---|
| 11/953,249 | 12/10/2007 | Erik R. SWENSON | 34186/1041 |

**CONFIRMATION NO. 1838**

**POA ACCEPTANCE LETTER**

26774
NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

*OC000000034266384*

Date Mailed: 01/28/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/07/2009.

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

/idingle/

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,257 | 12/10/2007 | Yasuhide TANI | 2018-1866 | 1854 |

7590 11/10/2009

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

| EXAMINER | |
|---|---|
| WON, BUMSUK | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2889 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/10/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
11/10/2009 0038276651

Credit Card Refund Total: $510.00

CC Exp...: XXXXXXXXXXX2621

Adjustment date: 11/10/2009 NFARMER
12/10/2007 INTEFSU 00000362 11953257
02 FC:1111 -510.00 OP

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6201 SOUTH FREEWAY
FORT WORTH TX 76134

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MAR 13 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Stacy Faught, Glenn Sussman | : | DECISION ACCORDING STATUS |
| Application No. 11/953,329 | : | UNDER 37 CFR 1.47(a) |
| Filed: December 10, 2007 | : | |
| Attorney Docket No. 2935 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed February 13, 2008.

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

Petitioner has demonstrated that inventor Faught has refused to sign the declaration after having been presented with the application papers. Specifically, a copy of the application papers was forwarded to Faught on October 30, 2007, but as of the filing date of the petition, no executed declaration from Faught 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 inventors at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The $200 petition fee has been charged to Deposit Account No. 50-1051, as authorized.

The matter is being forwarded to Group Art Unit 3676 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

STACY FAUGHT
2 ENTERPRISE # 11106
ALISO VIEJO CA 92656

COPY MAILED

MAR 13 2008

OFFICE OF PETITIONS

In re Application of :
Stacy Faught, Glenn Sussman :
Application No. 11/953,329 :
Filed: December 10, 2007 :
Title: Fluidic Coupling for Surgical Hand Piece : LETTER

Dear Mr. Faught:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Abdallah | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7604582 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/953,408 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/10/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,425 | 12/10/2007 | Anthony H. Philips | GB920070132US1 (21714) | 2145 |

48233 7590 02/26/2008

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

| EXAMINER | |
|---|---|
| MOFIZ, APU M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2161 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/26/2008 | PAPER |

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

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

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John Pyun
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza
Suite 300
Garden City, NY 11530

In re Application of:
Anthony PHILLIPS, et al
Serial No.: 11/953,425
Filed: December 10, 2007
Attorney Docket: GB920070132US1 (21714)
Title: SYSTEM AND MEHTOD TO CUSTOMIZE ENGINE RESULTS BY PICKING DOCUMENTS

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 December 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **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.

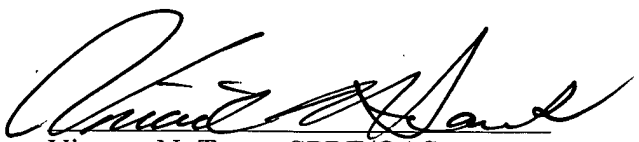
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Ward and Smith, P.A.**
**1001 College Court**
**P.O. Box 867**
**New Bern, NC 28563-0867**

**COPY MAILED**

FEB 2 7 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| William James Anderl et al. | : | |
| Application No. 11/953,433 | : | DECISION ON PETITION |
| Filed: December 10, 2007 | : | TO WITHDRAW |
| Attorney Docket No. ROC920070497US1 (IBM 6) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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. 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 E. Eric Mills on behalf of all attorneys/agents associated with customer number 74342. All attorneys/agents associated with customer number 74342 have been withdrawn.

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

Future correspondence will be mailed to the address of the first signing inventor.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: William James Anderl
4040 16th Avenue N.W.
Rochester, MN 55901

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 |
|---|---|---|---|
| 11/953,433 | 12/10/2007 | William James Anderl | ROC920070497US1 (IBM 6) |

**CONFIRMATION NO. 2161**

**POWER OF ATTORNEY NOTICE**

74342
WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN, NC 28563-0867

*OC00000034768677*

Date Mailed: 02/27/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2009.

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

/kainabinet/

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
John G. Lenhart :
Application No. 11/953,461 : DECISION ON PETITION
Filed: December 10, 2007 :
Attorney Docket No. 073415-9002-02 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 24, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the Notice to File Missing Parts mailed February 12, 2008. A Notice of Abandonment was mailed on October 20, 2008, stating that no reply had been received.

A review of the application file reveals the presence of a reply, specifically a Rule 47(b) petition, filed on September 15, 2008, made timely by obtaining a five month extension of time and by including a Certificate of Mailing dated September 10, 2008. Furthermore, a review of Office records reveals that the Office received the fee for the five month extension of time on September 15, 2008. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being retained in the Office of Petitions for consideration of the Rule 47(b) petition, filed September 15, 2008.

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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SUITE 3300
MILWAUKEE WI 53202

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
John G. Lenhart :
Application No. 11/953,461 : DECISION ON PETITION
Filed: December 10, 2007 :
Attorney Docket No. 073415-9002-02 :

This is a decision on the petition under 37 CFR 1.47(b), filed September 15, 2008.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of 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; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (2) and (6).

As to requirement (2), Rule 47 applicant has not submitted an acceptable oath or declaration. As set forth in MPEP 409.03(b),

the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation. Here, the declaration submitted was blank.

If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment for the above-identified application (or a copy of an agreement to assign, e.g. an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[1]

As to requirement (6), irreparable damage may be established by a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage. See MPEP 409.03(g).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(f).

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SUITE 3300
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of :
John G. Lenhart :
Application No. 11/953,461 : DECISION ON PETITION
Filed: December 10, 2007 :
Attorney Docket No. 073415-9002-02 :

This is a decision on the renewed petition under 37 CFR 1.47(b), filed November 13, 2009.

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

Applicant filed a petition under 37 CFR 1.47(b) on November 28, 2008. However, the petition was dismissed in a decision mailed on February 13, 2009. The petition was dismissed because Rule 47 applicant did not submit an executed oath or declaration (the declaration submitted was blank). In addition, Rule 47 applicant did not establish irreparable damage.

With the instant renewed petition, Rule 47(b) applicant has overcome the objections set forth in the April 13, 2009 dismissal.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(b). Accordingly, the above-identified application is hereby accorded Rule 1.47(b) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Patent Application Processing for 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
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Alexandria, VA 22313-1450
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JOHN G LENHART
2846 SOUTH FOX RUN CIRCLE
GREEN BAY WI 54302

MAILED

NOV 18 2009

OFFICE OF PETITIONS

In re Application of :
John G. Lenhart :
Application No. 11/953,461 :
Filed: December 10, 2007 : LETTER
Title: Method and Apparatus for :
Cleaning Vehicles

Dear Mr. Lenhart:

You are named as the 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 the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,463 | 12/10/2007 | YORIHARU TAKAI | 008312-0366808 | 2221 |

7590 11/20/2009

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

| EXAMINER | |
|---|---|
| BRAGDON, REGINALD GLENWOOD | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2189 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/20/2009 | PAPER |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 11/20/2009 NFARMER
12/11/2007 IRTEFSW 00001540 033975 11953463
02 FC:1111 510.00 CR

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AUG 20 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn VA 20147

In re Application of
FUKADA, SHINICHI, et al.
Application No. 11/953,512
Filed: December 10, 2007
Attorney Docket No. **CANO:630**

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 24, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

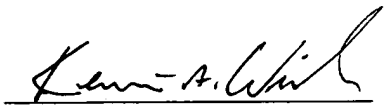
(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation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

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

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

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

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



Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,515 | 12/10/2007 | Ju Hee Bae | YOR920070231US1(21135) | 2324 |

48233 7590 03/19/2008

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

| EXAMINER | |
|---|---|
| LO, WEILUN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2179 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/19/2008 | PAPER |

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

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

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

| | |
|---|---|
| In re Application of:<br>Ju Hee Bae et al.<br>Serial No.: 11/953,515<br>Filed: December 10, 2007<br>Docket: YOR920070231US1(21135)<br>Title: COMPOSITION-BASED APPLICATION USER INTERFACE FRAMEWORK | 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 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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 January 2, 2008 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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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of
DiPaolo, et al.
Application No. 11/953,521
Filed: December 10, 2007
Attorney Docket No. P08904US02/WEJ

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 6, 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. Applicant lacks item (1) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing inventor cannot be reached or located for presentation of the application papers.

Petitioners allege that the non-signing inventor orally refused to sign the declaration for the instant application papers on March 4, 2008. Petitioner further alleges that the non-signing inventor was given a copy of the application papers via email on December 3, 2007.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a bona fide effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

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) prior to the alleged refusal to execute the declaration.

Petitioners have failed to sufficiently establish that the copy of the application papers forwarded to the inventor via email was in a form that could be read and comprehended by the intended recipient, and that it was in fact received, opened and read by the intended recipient. Typically a non-signing inventor would indicate receipt of the email and referenced attachments via return email in a 37 CFR 1.47(a) scenario.

Accordingly, it cannot be found that the non-signing inventor refused to execute the declaration after having been completed with the complete application papers.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. See, MPEP 409.03(c).

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
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SUITE 900
ALEXANDRIA VA 22314

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NOV 10 2008

In re Application of :
DIPAOLO, et al. :
Application No. 11/953,521 :
Filed: December 10, 2007 :
Attorney Docket No. P08904US02/WEJ :

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 6, 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 Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-2305.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Clifford Fay
PO Box 281
Harveys Lake, PA 18618

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NOV 10 2008

In re Application of
DIPAOLO, et al.
Application No. 11/953,521
Filed: December 10, 2007
Attorney Docket No. P08904US02/WEJ

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Marc A. Unger | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7588672 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/953,538 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/10/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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SUITE 1200
WASHINGTON DC 20005-4051

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AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Cheng, Pressman, H. Zhang, Ma, S. Zhang, and Hummell :
Application No. 11/953,569 : DECISION REFUSING STATUS
Filed: December 10, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 004832.00079 :
For: **E-SERVICES TRANSLATION UTILIIZING MACHINE TRANSLATION AND TRANSLATION MEMORY**

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

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

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

The above-identified application was filed on December 10,2 007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on January 10, 2008, requiring, in part, an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on August 11, 2008, with a request for an extension of time within the fifth month.

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

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

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

(3) the petition fee,

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

The instant petition lacks items (1) as set forth above.

Section 409.03(d) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not, itself, suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor . . .
>
> 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.

The affdavits and other documentary evidence that accompanied the petition do not demonstrate that a complete copy of the application papers, and not just the declaration and assignment, was presented to the non-signing inventors. Petitioner must demonstrate that an effort was made to present a complete copy of the application papers to the non-signing inventors before the inventors can be said to have refused to join the prosecution of the application. Any renewed petition must, therefore, establish that an attempt was made to present a complete copy of the application papers to the non-signing inventors.

Additionally, petitioner did not provide a copy of the evidence demonstrating that the non-signing inventor received the documentation sent to her and did not provide a copy of the e-mail communication between the non-signing inventor and the representative of the 37 CFR 1.47(a) applicant. This documentation must accompany the renewed petition.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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SUITE 1200
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OFFICE OF PETITIONS

In re Application of :
Cheng, Pressman, H. Zhang, Ma, S. Zhang, and Hummell :
Application No. 11/953,569 : DECISION ACCORDING STATUS
Filed: December 10, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 004832.00079 :
For: **E-SERVICES TRANSLATION UTILIIZING MACHINE TRANSLATION AND TRANSLATION MEMORY**

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 30, 2009.

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-identified application was filed on December 10,2 007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on January 10, 2008, requiring, in part, an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(a) was filed on August 11, 2008, with a request for an extension of time within the fifth month and dismissed by a decision mailed August 28, 2008.

Petitioner has shown that inventors Cheng, Pressman, and H. Zhang have refused to join the prosecution of the application and that inventor S. Zhang cannot be located to join the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Patent Application Processing for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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In re Application of
Raymond L. Ridge

Application No. 11953706

Filed: December 10,2007

Attorney Docket No. 3818.RRID.NP

: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 24-JUN-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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**TRELLIS INTELLECTURAL PROPERTY LAW GROUP, PC**
**1900 EMBARCADERO ROAD, SUITE 109**
**PALO ALTO, CA 94303**

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Kim B. **LE, et al.** :
Application No. 11/953,712 : DECISION ON PETITION TO
Filed: December 10, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **100112-001610US** :

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 12, 2008 and re-submitted January 28, 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 Charles J. Kulas 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding final Office action mailed January 22, 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: **COPAN SYSTEMS, INC.**
**1900 PIKE ROAD, UNIT A**
**LONGMONT, CO 80501**

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**Heller Ehrman, LLP**
**4350 La Jolla Village Drive, 7th Floor**
**San Diego, CA 92122**

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OFFICE OF PETITIONS

In re Application of

David P. Arnott et al.
Application No. 11/953,733
Filed: December 10, 2007
Attorney Docket No. 39766-0206R1-1DV1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by customer number 25213.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,783 | 12/10/2007 | Michael A. Schwarz | 2072.010US3 | 2807 |

21186 7590 02/28/2008

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

| EXAMINER | |
|---|---|
| MEINECKE DIAZ, SUSANNA M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3692 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/28/2008 | 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

FEB 27 2008

TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Schwarz et al. : **TO MAKE SPECIAL FOR**
Application No. 11/953,783 : **NEW APPLICATION**
Filed: December 10, 2007 : **UNDER 37 CFR 1.102**
For: METHOD AND SYSTEM TO VERIFY THE IDENTITY OF A USER

This is a decision on the petition filed on December 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

6.3. a detailed explanation of how each of the claims 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, and II.6.3.

Condition II.5 sets forth that, for database searches, the search logic used as a query, the name of the file(s) searched, and the database service(s) utilized must be identified by Applicant. While Applicant states that a search query was conducted using "USPTO, MICROPAT," it is not clear which of the two services was used. If both were used, then the search queries used in each respective service should be listed under the proper database service name and corresponding database files. Similarly, the search queries used in Google and ACM should be listed under the respective database service for which it was used. This is especially important since different database services might utilize different search operators. Applicant is also reminded to list which database files were searched through each database service (including ACM, which currently has no database files listed).

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 705/44. Looking toward the available search templates and recommended areas of search for class 705/44 (see http://www.uspto.gov/web/patents/searchtemplates/class705-035.htm), some of the more relevant search areas would include a text search related to **all** claimed concepts in the listed Non-Patent Literature database files. A comprehensive list of recommended database files are listed on the 705/44 search templates web page as well. Especially relevant to the claimed subject matter are database files such as ABI/INFORM, ACM Digital Library, American Banker Financial Publications, Banking Information Source, Business & IndustryTM (B&I), Business Wire, DIALOG Finance and Banking Newsletters, EBSCOhost Research Databases, Gale Group New Product Annoucements/Plus (NPA/Plus), Gale Group Newsletter DatabaseTM, Gale Group PROMT, Gale Group Trade & Industry DatabaseTM, JSTOR Journals, New York Times, PR Newswire, ProQuest Direct, Wall Street Journal Abstracts, and Wilson Applied Science & Technology Abstract. While Applicant lists ACM as having been searched, it is not clear which database files were searched within the ACM database service.

As per Condition II.5.2, it does not appear that Applicant utilized the proper query syntax in the USPTO database. Applicant uses "*" as a truncation operator; however, if East, West, or the Internet interface were used to access the

USPTO's database service, then "$" would have been the proper truncation operator.

Further regarding Condition II.5.2, Applicant does not utilize many synonyms in the search queries. Truncation operators, including singular and plural word endings, are not consistently used either. For example, many search queries include the term "identity," without accounting for synonyms, plurals, or other possible word endings. Using East search syntax, "identity" might also be searched as identif$4 OR identification$1 OR ID OR identity$3 OR name OR names OR credential$1 OR passport$1 OR (social ADJ security) OR ssn. "Mapping" might be searched as map$1 OR mapping OR mapped OR match$3 OR (look$3 ADJ up) OR (cross ADJ referenc$3) OR correlat$4 OR correspond$4 OR link$4. Similarly, synonyms, plurals, and more truncation operators should be used to query the following searched terms: matching, duplicate, databases, compatible, reference, numbers, verif*, verify*, anonymity, indirect, PIN, geographical, secure, synchron*, agree*, ssn, and "social security number." Also, it is recommended that proximity operators be used to better focus on the claimed concepts. All of Applicant's search queries are limited to "and"; however, more succinct context should be given to the search queries to account for certain words that should be located to one another in close proximity. For example, the concept of verifying one's social security number might be searched as ((verify$ OR verification$1 OR authentic$6 OR match$3 or map$4 OR (look$3 ADJ up) OR credential$1 OR check$3) NEAR5 ((identif$6 OR social OR personal OR identification$1 OR passport$1 OR driver$1) NEAR5 (number$1 OR digit$1 OR serial OR numeral$1))).

Regarding Condition II.5.2, the search terms and logic do not encompass all of the features of the claims, including the dependent claims. For example, at least the following limitations were not reflected in the search queries:

Claim 1: receiving a telephone number

obtaining a geographical address associated with a user, based on the telephone number

utilizing the obtained geographical address...to determine whether the plurality of digits correspond to at least a portion of the social security number of the user

Claim 2: wherein the determining of whether the plurality of digits correspond to the social security number of the user comprises:

providing the obtained geographical address and the received plurality of digits to a personal data matching service

Claim 3: wherein the personal data matching service is a third party service

Claim 4: initiating a network communication with the personal data matching service

Claim 5: wherein the obtaining of the geographical address associated with a user comprises:

providing the telephone number to a geographical address service

receiving the geographical address, the geographical address being associated with the telephone number

Claim 6: wherein the providing of the telephone number to the geographical address service comprises initiating a network communication with the geographical address service

Claim 7: wherein the at least a portion of the social security number is the last four digits of the social security number

Claim 8: wherein the determining whether the plurality of digits correspond to the at least a portion of the social security number of the user comprises:

obtaining an identification record utilizing the obtained geographical address, the identification record including a reference social security number

comparing the at least a portion of the reference social security number with the plurality of digits

generating a match result based on a result of the comparing

Claim 9: generating an authentication message based on the match result

Claim 10: wherein the generating of the authentication message comprises generating an authentication message indicative of a positive authentication, the positive authentication being based on a partial match of the at least a portion of the reference social security number with the plurality of digits

Claim 11: the generating of the authentication message comprises generating an authentication message indicative of a positive authentication, the positive authentication being based on an exact match of the at least a portion of the reference social security number with the plurality of digits

Claim 12: automatically initiating an alternative identity verification procedure in response to the generating of the authentication message, the authentication message being indicative of a failed authentication

Claim 13: wherein the alternative identity verification procedure comprises initiating a telephone call to the telephone number

Claim 14: obtaining validation of the telephone number as an acceptable payment method to be utilized by the user

Claim 15: wherein the telephone number is derived from a billing telephone number associated with the user

Claim 16: wherein the telephone number is derived from an automatic number identification (ANI) associated with the user

Claim 17: generating an authentication response based on the determination of whether the plurality of digits correspond to the at least a portion of the social security number of the user;

Claim 18: wherein the receiving of the telephone number and the plurality of digits is associated with a request to authenticate the user, the method further comprising communicating the authentication response to an originator of the request;

Claim 19: receiving a billing telephone number and a plurality of digits

receiving a geographical address associated with a user

utilizing the geographical address...to determine whether the plurality of digits correspond to the last four digits of the social security number of the user

Claim 20: a communications module to receive a telephone number and a

plurality of digits

an address detector to obtain a geographical address associated with a user, based on the telephone number

a business rules engine to determine whether the plurality of digits correspond to at least a portion of the social security number of the user, utilizing the obtained geographical address...

It is especially important that the concept of "using a user's telephone number to obtain the user's geographical address, then using the obtained address together with a plurality of digits to determine whether the received plurality of digits correspond to at least a portion of the user's social security number" be searched in its entirety and from different aspects since Applicant asserts these features as patentably distinguishing the claimed invention over the prior art (pages 107-108 of the Accelerated Examination Support Document).

A recommended search might be executed in all databases of East (plurals on) with the following search queries:

L1: ((verif$4 OR verification$1 OR authentic$6 OR match$3 or map$4 OR (look$3 ADJ up) OR credential$1 OR check$3) NEAR5 ((identif$6 OR social OR personal OR identification$1 OR passport$1 OR driver$1) NEAR5 (number$1 OR digit$1 OR serial OR numeral$1)))

L2: L1 SAME (telephon$2 OR cell OR cellular OR phone$1 OR mobile)

L3: L2 SAME (address$2 OR street$1 OR home$1 OR house$1 OR abode$1 OR residence$1 OR blvd OR boulevard$1 OR road$1 OR geographic$5)

L4: L3 AND ((telephon$2 OR cell OR cellular OR phone$1 OR mobile OR ANI) NEAR10 (social OR identifier$1 OR ssn))

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, while Applicant lists most of the references discussed in detail in the Accelerated Examination Support Document on the IDS, Applicant omits some of the cited references, but then adds other references that are not discussed at all. For example, the IDS lists Smith et al, Sussman, and Meyer et al., yet none of these references are mentioned in the Accelerated Examination Support Document. On the other hand, the Accelerated Examination Support

Document cites Ranzini (U.S. Patent No. 7,120,606), Woodhill (U.S. Patent No. 6,934,858), Ellingson (U.S. Patent No. 6,871,287), and Clifton (US 2004/0243518); however, none of these discussed references are listed on the 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 per Condition II.6.3, Applicant does not specifically identify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims (and, if so, how) nor does Applicant provide a statement that the dependent claims are not separately patentable.

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

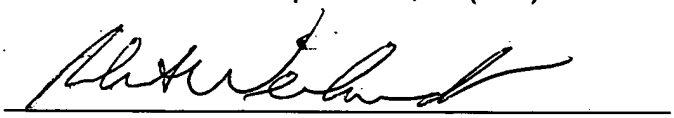
DECISION

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.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/SMD/1/31/08

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**CARDICA, INC.**
**900 SAGINAW DRIVE**
**REDWOOD CITY CA 94063**

MAILED

MAR 22 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Bender et al. | : | |
| Application No. 11/953,791 | : | ON PETITION |
| Filed: December 10, 2007 | : | |
| Attorney Docket No. 231 | : | |

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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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JUL 30 2009

OFFICE OF PETITIONS

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

In re Application of
Jonathan R. Heim
Application No. 11/953,798
Filed: December 10, 2007
Attorney Docket No. ARMUNA00202

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 13, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within **two (2) months** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

The application became abandoned for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed January 4, 2008, which set a two month period to reply. As no extensions of time, under the provisions of 37 CFR 1.136(a), was obtained the application became abandoned on March 4, 2008. A Notice of Abandonment was mailed on January 30, 2009.

In the present petition, petitioner requests that the Office reconsider its decision to hold the above application abandoned.

## DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner argues that a timely response was "timely filed via EFS-Web on April 16, 2008," and that the holding of abandonment should be withdrawn. "Petitioner confirms the response is available on PAIR, but encloses a copy of the response" with the present petition.

A review of the record shows that a Notice to File Missing Parts of Nonprovisional Application was mailed on January 4, 2008, which required petitioner to submit $75 to complete the basic filing fee, a $65 surcharge for the late filing, $255 for the search fee,

$105 for the examination fee, $315 for three independent claims over three and $775 for thirty one total claims over twenty.

The record also discloses that petitioner responded to the Notice to File Missing Parts on April 16, 2008, by submitting the deficient items mentioned above, along with $60 for a one month extension of time (March 4, 2008 – April 4, 2008) on April 16, 2008. However, petitioner needed $230 for a two month extension of time (from March 4, 2008 – May 4, 2008) in order to make the response filed on April 16, 2008 timely. Therefore, since the record is clear that petitioner failed to submit the appropriate request for extension of time and fees under 37 CFR 1.136(a), the above application was properly held abandoned and the petition to withdraw the holding of abandonment is dismissed.

**ALTERNATIVE VENUE**

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed.
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), $770 for a small entity;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application can be found on the Web site at www.uspto.gov form (PTO/SB/64. If petitioner desires to file a petition under 37 CFR 1.137(b), petitioner must complete form PTO/SB/64 and pay the $810 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 2 0 2009

**OFFICE OF PETITIONS**

In re Application of :
Jonathan R. Heim :
Application No. 11/953,798 : ON PETITION
Filed: December 10, 2007 :
Attorney Docket No. ARMUNA00202 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed January 4, 2008. A Notice of Abandonment was mailed on January 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $75 to complete the basic filing fee, a $65 surcharge for the late filing, $255 for the search fee, $105 for the examination fee, $315 for three independent claims over three and $775 for thirty one total claims over twenty; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

To make the response filed on April 16, 2008 timely, petitioner needed $230 for a two month extension of time. Since the $60 fee submitted on April 16, 2008 is unnecessary, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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. |
|---|---|---|---|---|
| 11/953,823 | 12/10/2007 | Alexander Jozef Magdalena Van De Rostyne | 058084-013707 | 2894 |

33717 7590 03/11/2008

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INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

| EXAMINER | |
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| HYLINSKI, ALYSSA MARIE | |
| **ART UNIT** | **PAPER NUMBER** |
| 3711 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/11/2008 | 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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P.O. Box 1450
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Greenberg Traurig LLP (LA)
2450 Colorado Avenue, Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

MAR 11 2008

In re Application of: Van De Rostyne, Alexander Jozef Magdalena
Serial No.: 11/953,823
Filed: December 10, 2007
Title: Toy Helicopter

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 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

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

When referring to "the petition" herein below, the received papers under consideration include the two page "Petition to Make Special", the Accelerated Examination Support Document, pages 1-61, the Pre-Examination Search Statement, pages 1-6, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on December 10, 2007.

Regarding the requirements of section II element 5.1 outlined above, the statement of pre-examination search provided does not clearly and sufficiently identify the searching performed. Regarding the classification search identified, petitioner appears to describe on page 1 a search performed based on US class and subclass; however, petitioner does not identify which databases were searched or when. Petitioner refers to searching EAST and to original and supplemental searches but these searches have not been clearly identified by field of search and date. Furthermore, the information presented on pages 1 and 2, which identify classes and subclasses as well as text searching but have no date, is further unclear as petitioner has not specified whether in fact separate classification searching and text searching were performed or instead only a text search within those classes and subclasses identified. Petitioner is reminded that a classification search, identified solely by classes and subclasses, is a search of ALL art in those classes and subclasses and is not further limited by text (such "combination search should be separately and specifically identified). Likewise, pages 3-5 of the search statement refer to searches that were conducted in narrative but petitioner has not actually provided the search logic and other details as required for these searches. The insufficient identification of the searching conducted in underscored throughout by statements that the "above noted search strategy as well as other combinations of the key words" were searched. Therefore petitioner has failed to identify the search logic used as a query for those searches.

Regarding the requirements of section II element 5.2 outlined above, petitioner might have conducted a search of class 446, subclasses 34, 36, and 37; as noted above, petitioner has not made clear whether this classification search was performed or whether this area was merely text searched. Notwithstanding, although a search of these subclasses is appropriate, petitioner has failed to search additional critical search areas of class 446 consisting of subclasses 230 (Simulated Aircraft or Space Vehicle), 232 (under sub 230, Having means to rotate propeller or rotor), and 236 (Rotating or Having Visible Rotating Portion). Lastly, the pre-examination search statement is confusing for including information regarding the field of search by the examiner in a corresponding Great Britain application on page 3. Petitioner has not stated that they have performed any search in this area and therefore it has not been considered as part of the field of petitioner's search. Further it is unclear whether petitioner intended to cite DE 4017402 A1; petitioner discusses this document and the citing of this document by a foreign patent office in a corresponding application but does not cite this document, provide a copy, or discuss it in the AESD. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-16 have been specifically searched; this may be due in part to the omission of some search logic per element 5.1 above. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirements of section II element 5.3 outlined above, it is not clear petitioner has made use of the foreign search identified on page 3 of the search statement or not; petitioner

identifies this field of search but it is not clear whether or when petitioner conducted any such search.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by each reference specifying where the limitation is disclosed in the cited reference. Although what the petitioner has provided with respect to the Brooks and Ward references is sufficient, it is unclear whether this element has been satisfied. As similarly noted above with respect to element 5.2, it is unclear whether petitioner ought to also be discussing in this portion DE 4017402 A1. Although petitioner states that this reference was in an office action from a foreign office, petitioner has not cited it and there is a reasonable question as to whether petitioner should have cited it and therefore should discuss it in this section.

Regarding the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how *each* of the claims are patentable over *each* of the references with particularity required by 37 CFR 1.111(b) and (c). Although what the petitioner has provided with respect to the Brooks and Ward references is sufficient, it is unclear whether this element has been satisfied. As similarly noted above with respect to element 5.2, it is unclear whether petitioner ought to also be discussing in this portion DE 4017402 A1. Although petitioner states that this reference was in an office action from a foreign office, petitioner has not cited it and there is a reasonable question as to whether petitioner should have cited it and therefore should discuss it in this section.

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written description of the specification as well as in each priority document for which benefit under 35 USC is claimed. The information petitioner has provided in the AESD appears to be sufficient, however the petitioner refers to the parent Belgian Application No. 2006/0043 and also references an attached English translation. There are many, many documents cited in this application and careful review has not found any which is clearly identified as an English translation of the Belgian Application; review has also not found any copy of the Belgian Application itself either in the instant application or any of the parent applications. Petitioner is invited to submit copies in support of the petition, or to clearly and concisely identify where such documents can be found. Nonetheless, a grantable petition requires a *complete* showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification *as well as each priority document* for which benefit is claimed.

## DECISION

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

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

considered timely. Any request for reconsideration must address the deficiencies indicated above.

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

Any inquiry regarding this decision should be directed to Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170 or, in her absence, TC 3700 Special Program Examiner Ehud Gartenberg.

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

APR 10 2008

| | |
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| In re Application of: Van De Rostyne, Alexander Josef Magadalena<br>Application No.: 11/953,823<br>Filed: December 10, 2007<br>Title: TOY HELICOPTER | 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 4, 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 regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

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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 NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,826 | 12/10/2007 | Alexander Jozef Magdalena Van De Rostyne | 058084-013705 | 2905 |

33717 7590 03/11/2008

GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

| EXAMINER | |
|---|---|
| HYLINSKI, ALYSSA MARIE | |
| **ART UNIT** | **PAPER NUMBER** |
| 3711 | |
| **MAIL DATE** | **DELIVERY MODE** |
| 03/11/2008 | 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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Greenberg Traurig LLP (LA)
2450 Colorado Avenue, Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

MAR 11 2008

In re Application of: Van De Rostyne, Alexander Jozef Magdalena
Serial No.: 11/953,826
Filed: December 10, 2007
Title: Toy Helicopter

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 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

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

When referring to "the petition" herein below, the received papers under consideration include the two page "Petition to Make Special", the Accelerated Examination Support Document, pages 1-49, the Pre-Examination Search Statement, pages 1-6, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on December 10, 2007.

Regarding the requirements of section II element 5.1 outlined above, the statement of pre-examination search provided does not clearly and sufficiently identify the searching performed. Regarding the classification search identified, petitioner appears to describe on page 1 a search performed based on US class and subclass; however, petitioner does not identify which databases were searched or when. Petitioner refers to searching EAST and to original and supplemental searches but these searches have not been clearly identified by field of search and date. Furthermore, the information presented on pages 1 and 2, which identify classes and subclasses as well as text searching but have no date, is further unclear as petitioner has not specified whether in fact separate classification searching and text searching were performed or instead only a text search within those classes and subclasses identified. Petitioner is reminded that a classification search, identified solely by classes and subclasses, is a search of ALL art in those classes and subclasses and is not further limited by text (such "combination search should be separately and specifically identified). Likewise, pages 3-5 of the search statement refer to searches that were conducted in narrative but petitioner has not actually provided the search logic and other details as required for these searches. The insufficient identification of the searching conducted in underscored throughout by statements that the "above noted search strategy as well as other combinations of the key words" were searched. Therefore petitioner has failed to identify the search logic used as a query for those searches.

Regarding the requirements of section II element 5.2 outlined above, petitioner might have conducted a search of class 446, subclasses 34, 36, and 37; as noted above, petitioner has not made clear whether this classification search was performed or whether this area was merely text searched. Notwithstanding, although a search of these subclasses is appropriate, petitioner has failed to search additional critical search areas of class 446 consisting of subclasses 230 (Simulated Aircraft or Space Vehicle), 232 (under sub 230, Having means to rotate propeller or rotor), and 236 (Rotating or Having Visible Rotating Portion). Lastly, the pre-examination search statement is confusing for including information regarding the field of search by the examiner in a corresponding Great Britain application on page 3. Petitioner has not stated that they have performed any search in this area and therefore it has not been considered as part of the field of petitioner's search. Further it is unclear whether petitioner intended to cite DE 4017402 A1; petitioner discusses this document and the citing of this document by a foreign patent office in a corresponding application but does not cite this document, provide a copy, or discuss it in the AESD. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-16 have been specifically searched; this may be due in part to the omission of some search logic per element 5.1 above. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirements of section II element 5.3 outlined above, it is not clear petitioner has made use of the foreign search identified on page 3 of the search statement or not; petitioner

identifies this field of search but it is not clear whether or when petitioner conducted any such search.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by each reference specifying where the limitation is disclosed in the cited reference. Although what the petitioner has provided with respect to the Brooks and Ward references is sufficient, it is unclear whether this element has been satisfied. As similarly noted above with respect to element 5.2, it is unclear whether petitioner ought to also be discussing in this portion DE 4017402 A1. Although petitioner states that this reference was in an office action from a foreign office, petitioner has not cited it and there is a reasonable question as to whether petitioner should have cited it and therefore should discuss it in this section.

Regarding the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how *each* of the claims are patentable over *each* of the references with particularity required by 37 CFR 1.111(b) and (c). Although what the petitioner has provided with respect to the Brooks and Ward references is sufficient, it is unclear whether this element has been satisfied. As similarly noted above with respect to element 5.2, it is unclear whether petitioner ought to also be discussing in this portion DE 4017402 A1. Although petitioner states that this reference was in an office action from a foreign office, petitioner has not cited it and there is a reasonable question as to whether petitioner should have cited it and therefore should discuss it in this section.

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written description of the specification as well as in each priority document for which benefit under 35 USC is claimed. Initially it is noted that petitioner has not identified any means or step plus function language and therefore presumably does not invoke 112, sixth paragraph. Petitioner has failed to provide any showing of support for any of the claims with respect to the specification of the instant application. Petitioner does, provide support information for the priority chain, but had neglected to include the instant application. The remaining information petitioner has provided in the AESD appears to be sufficient, however the petitioner refers to the parent Belgian Application No. 2006/0043 and also references an attached English translation. There are many, many documents cited in this application and careful review has not found any which is clearly identified as an English translation of the Belgian Application; review has also not found any copy of the Belgian Application itself either in the instant application or any of the parent applications. Petitioner is invited to submit copies in support of the petition, or to clearly and concisely identify where such documents can be found. Nonetheless, a grantable petition requires a *complete* showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification *as well as each priority document* for which benefit is claimed.

## DECISION

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

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

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

Any inquiry regarding this decision should be directed to Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170 or, in her absence, TC 3700 Special Program Examiner Ehud Gartenberg.

Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

APR 10 2008

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| In re Application of: Van De Rostyne, Alexander Josef Magadalena<br>Application No.: 11/953,826<br>Filed: December 10, 2007<br>Title: TOY HELICOPTER | 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 4, 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 regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg

Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,830 | 12/10/2007 | Alexander Jozef Magdalena Van De Rostyne | 058084-013706 | 2911 |

33717 7590 03/11/2008

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| EXAMINER | |
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| ART UNIT | PAPER NUMBER |
| 3711 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/11/2008 | 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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Santa Monica, CA 90404

MAR 11 2008

In re Application of: Van De Rostyne, Alexander Jozef Magdalena
Serial No.: 11/953,830
Filed: December 10, 2007
Title: Toy Helicopter

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 10, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

## REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

## REVIEW OF FACTS

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

When referring to "the petition" herein below, the received papers under consideration include the two page "Petition to Make Special", the Accelerated Examination Support Document, pages 1-49, the Pre-Examination Search Statement, pages 1-6, and the Information Disclosure Statement and PTO-1449 form. All items were received via EFS Web on December 10, 2007.

Regarding the requirements of section II element 5.1 outlined above, the statement of pre-examination search provided does not clearly and sufficiently identify the searching performed. Regarding the classification search identified, petitioner appears to describe on page 1 a search performed based on US class and subclass; however, petitioner does not identify which databases were searched or when. Petitioner refers to searching EAST and to original and supplemental searches but these searches have not been clearly identified by field of search and date. Furthermore, the information presented on pages 1 and 2, which identify classes and subclasses as well as text searching but have no date, is further unclear as petitioner has not specified whether in fact separate classification searching and text searching were performed or instead only a text search within those classes and subclasses identified. Petitioner is reminded that a classification search, identified solely by classes and subclasses, is a search of ALL art in those classes and subclasses and is not further limited by text (such "combination search should be separately and specifically identified). Likewise, pages 3-5 of the search statement refer to searches that were conducted in narrative but petitioner has not actually provided the search logic and other details as required for these searches. The insufficient identification of the searching conducted in underscored throughout by statements that the "above noted search strategy as well as other combinations of the key words" were searched. Therefore petitioner has failed to identify the search logic used as a query for those searches.

Regarding the requirements of section II element 5.2 outlined above, petitioner might have conducted a search of class 446, subclasses 34, 36, and 37; as noted above, petitioner has not made clear whether this classification search was performed or whether this area was merely text searched. Notwithstanding, although a search of these subclasses is appropriate, petitioner has failed to search additional critical search areas of class 446 consisting of subclasses 230 (Simulated Aircraft or Space Vehicle), 232 (under sub 230, Having means to rotate propeller or rotor), and 236 (Rotating or Having Visible Rotating Portion). Lastly, the pre-examination search statement is confusing for including information regarding the field of search by the examiner in a corresponding Great Britain application on page 3. Petitioner has not stated that they have performed any search in this area and therefore it has not been considered as part of the field of petitioner's search. Further it is unclear whether petitioner intended to cite DE 4017402 A1; petitioner discusses this document and the citing of this document by a foreign patent office in a corresponding application but does not cite this document, provide a copy, or discuss it in the AESD. Finally, nowhere in the search is it apparent that the specific features claimed in every one of claims 1-16 have been specifically searched; this may be due in part to the omission of some search logic per element 5.1 above. A grantable petition requires the search be directed to the claimed invention and encompass all of the features of all of the claims while giving the claims the broadest reasonable expectation.

Regarding the requirements of section II element 5.3 outlined above, it is not clear petitioner has made use of the foreign search identified on page 3 of the search statement or not; petitioner

identifies this field of search but it is not clear whether or when petitioner conducted any such search.

Regarding the requirements of section II element 6.2 outlined above, the petition fails to identify all the limitations in the claims that are disclosed by each reference specifying where the limitation is disclosed in the cited reference. Although what the petitioner has provided with respect to the Brooks and Ward references is sufficient, it is unclear whether this element has been satisfied. As similarly noted above with respect to element 5.2, it is unclear whether petitioner ought to also be discussing in this portion DE 4017402 A1. Although petitioner states that this reference was in an office action from a foreign office, petitioner has not cited it and there is a reasonable question as to whether petitioner should have cited it and therefore should discuss it in this section.

Regarding the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how *each* of the claims are patentable over *each* of the references with particularity required by 37 CFR 1.111(b) and (c). Although what the petitioner has provided with respect to the Brooks and Ward references is sufficient, it is unclear whether this element has been satisfied. As similarly noted above with respect to element 5.2, it is unclear whether petitioner ought to also be discussing in this portion DE 4017402 A1. Although petitioner states that this reference was in an office action from a foreign office, petitioner has not cited it and there is a reasonable question as to whether petitioner should have cited it and therefore should discuss it in this section.

Regarding the requirement of section II, elements 6.5, the petition fails to provide a showing of where each limitation of the claims finds support under 112, first paragraph in the written description of the specification as well as in each priority document for which benefit under 35 USC is claimed. The information petitioner has provided in the AESD appears to be sufficient, however the petitioner refers to the parent Belgian Application No. 2006/0043 and also references an attached English translation. There are many, many documents cited in this application and careful review has not found any which is clearly identified as an English translation of the Belgian Application; review has also not found any copy of the Belgian Application itself either in the instant application or any of the parent applications. Petitioner is invited to submit copies in support of the petition, or to clearly and concisely identify where such documents can be found. Nonetheless, a grantable petition requires a *complete* showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification *as well as each priority document* for which benefit is claimed.

## DECISION

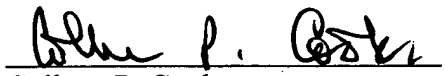
For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

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

considered timely. Any request for reconsideration must address the deficiencies indicated above.

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

Any inquiry regarding this decision should be directed to Colleen P. Cooke, TC 3700 Special Program Examiner, at (571) 272-1170 or, in her absence, TC 3700 Special Program Examiner Ehud Gartenberg.



Colleen P. Cooke
Special Program Examiner
Technology Center 3700

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| In re Application of: Van De Rostyne, Alexander Josef Magadalena<br>Application No.: 11/953,830<br>Filed: December 10, 2007<br>Title: TOY HELICOPTER | 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 4, 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.

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2. Restriction Practice:
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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.

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.

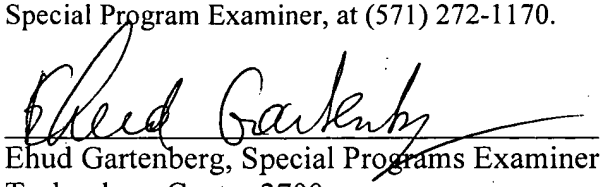
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.



Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

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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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

**COPY MAILED**

SEP 09 2008

**OFFICE OF PETITIONS**

In re Application of :

DAVIS, Roger :
Application No. 11/953,834 :
Filed: December 10, 2007 :
Attorney Docket No. 077874-010501 :

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

The request is 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 Charles Berman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Roger Davis at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: ROGER DAVIS
13700 MARINA POINT, UNIT 1616
MARINA DEL REY, CA 90292

cc: XERO MOBILE INC.
9701 WILSHIRE BLVD, 9TH FLOOR
BEVERLY HILLS, CA 90212

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AUG 10 2009

OFFICE OF PETITIONS

ASHOK K. JANAH
650 DELANCEY STREET, SUITE 106
SAN FRANCISCO, CA 94107

In re Application of :
Lei Lian et al :
Application No. 11/953,853 : ON PETITION
Filed: December 10, 2007 :
Attorney Docket No. 006717 USA
D01/ETCH/SILIC

This is a decision on the petition, filed August 7, 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 30, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZHIQING ZHUANG
35 MOUNT VERNON
IRVINE, CA 92620

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JAN 22 2010

Applicants: Zhiqing Zhuang, et al.
Appl. No.: 11/953,859
Filing Date: December 11, 2007
Title: METHOD OF MANAGING A LARGE ARRAY OF NON-VOLATILE MEMORIES
Attorney Docket:
Pub. No.: US 2009/0155183 A1
Pub. Date: June 26, 2008

This is a decision on the letter received on May 26, 2009, which is being treated as a request for a corrected patent application publication under 37 CFR 1.221(b), for the above-identified application.

The request is dismissed.

Applicant request that the application be republished as the original publication contains the wrong drawings.

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

The request for corrected publication, received on May 26, 2009, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The amendment received by the Office on March 10, 2008 and which were improperly scanned into this application and published have been removed.

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

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

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P.O. Box 1450
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**NOVAGRAAF IP**
**122 RUE EDOUARD VAILANT**
**LEVALLOIS-PERREIT 92300 FR FRANCE**

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Daniel Birnbaum et al :
Application No. 11/953,899 : DECISION ON PETITION
Filed: December 11, 2007 :
Attorney Docket No. 51435/US/02 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application mailed August 19, 2008, is accepted as having been unintentionally delayed

The Power of Attorney submitted on June 15, 2009 has not been entered because the copy of the assignment submitted with the Power of Attorney has not been recorded.

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 Examination Processing for pre-examination processing.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**HARNESS, DICKEY & PIERCE, P.L.C.**
**P.O. BOX 828**
**BLOOMFIELD HILLS, MI 48303**

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FEB 15 2008

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

In re Application of :
Hironobu Oki et al. :
Application No. 11/953,904 : DECISION DISMISSING
Deposited: December 11, 2007 : PETITION
Attorney Docket No. LSN-2018-1844 :

This is a decision on the petition filed January 16, 2008 under 37 CFR 1.53(e), in response to the Notice of Incomplete Nonprovisional Application ("Notice") mailed December 20, 2007, requesting that the above-identified application be accorded the filing date of December 11, 2007.

The petition is **GRANTED** to the extent indicated herein.

Application papers in the above-identified application were deposited on December 11, 2007. However, on December 20, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, Petitioners argue that the application was filed electronically via the Office's Electronic Filing System (EFS) on December 11, 2007 and that 14 sheets of drawings comprising Figures 1-19 were submitted with the original application. Petitioner further argues that the Acknowledgment Receipt at page 2 indicates that drawings were filed.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. Upon a review of the Office EFS database and the original XML documents however, it was noted that no drawings were submitted with the original application papers thus the "Notice" mailed December 20, 2007 was correct in stating that a complete specification was not filed.

Nonetheless, the application as filed is entitled to a filing date. Petitioner's attention is directed to MPEP 601.01(f), which 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).

A review of the application as filed reveals that the application contains at least one method claim. In view of the presence of the method claims, it is concluded that this application is entitled to a filing date. The "Notice of Incomplete Nonprovisional Application" mailed December 20, 2007, was mailed in error and is hereby **withdrawn**.

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

This matter is being referred to the Office of Patent Application Processing to accord December 11, 2007 as the filing date, with "0" drawings present in the application.

Petitioner may file a preliminary amendment, for review by the Examiner in due course, to add the 14 sheets of drawing figures filed with instant petition.

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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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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JAN 12 2010

OFFICE OF PETITIONS

In re Application of :
MAPES ET AL. :
Application No. 11/953,924 :
Filed: December 11, 2007 :
Attorney Docket No. 14920.0015 D1 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
THE GREEN TECHNOLOGY
PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed December 10, 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.

It is noted that the instant petition was not accompanied by the publication fee set forth in 37 CFR 1.18(d) as required. However, petitioner has authorized the charging of any additional fees to Deposit Account No. 19-4293. Accordingly, Deposit Account No. 19-4293 has been charged $300.00 under 37 CFR 1.18(d) for the publication fee as is required by the Notice.

The petition lacks item 5 above for the reason explained below.

The instant invention relates to a "PHOTOVOLTAIC ARRAY". The instant petition is accompanied by the statement on the basis for special status, i.e., the invention "materially contributes to the development of renewable energy resources or energy conservation . . . specifically, by relating to providing electrical energy from solar sources." 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 that materiality standard.

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 1795 for action in its regular turn.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/953,924 | 12/11/2007 | Donald R. Mapes | 14920.0015 D1 | 3054 |

27890 7590 03/16/2010

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

| EXAMINER | |
|---|---|
| BARTON, JEFFREY THOMAS | |
| ART UNIT | PAPER NUMBER |
| 1795 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/16/2010 | PAPER |

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

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

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1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

MAR 16 2010

| | | |
|---|---|---|
| In re Application of | : | |
| Mapes et al. | : | DECISION ON PETITION |
| Application No. 11/953,924 | : | TO MAKE SPECIAL UNDER |
| Filed: 12/11/2007 | : | THE GREEN TECHNOLOGY |
| Attorney Docket No. **14920.0015 D1** | : | PILOT PROGRAM |

This is a decision on the request for reconsideration, filed 2/11/2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

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

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

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

The application is being forwarded to the Technology Center Art Unit 1795 for action on the merits commensurate with this decision.

/Tom Dunn/

Tom Dunn
Quality Assurance Specialist
Technology Center 1700

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**PERKINS COIE LLP**
**PATENT-SEA**
**P.O. BOX 1247**
**SEATTLE, WA 98111-1247**

**MAILED**

APR 0 7 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Timber **DICK, et al.** | : | |
| Application No. 11953,968 | : | DECISION GRANTING PETITION |
| Filed: December 11, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **566778002US2** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 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 February 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) 272-7253.

This application is being referred to Technology Center AU 3741 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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**LAW OFFICES OF PAUL E. KUDIRKA**
**40 BROAD STREET**
**SUITE 300**
**BOSTON, MA 02109**

**MAILED**

JUL 20 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Deaver et al. | : | |
| Application No. 11/953,983 | : | DECISION ON PETITION |
| Filed: Decemeber 11, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 94989 | : | FROM RECORD |

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

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

A review of the file record indicates that the power of attorney to Paul E. Kudirka and any attorneys listed under customer number 64967 has been revoked by the assignee of the patent application on July 1, 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 571-272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI OH 45215

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APR 08 2010

OFFICE OF PETITIONS

In re Application of

Michael K. Dejonge :

Application No. 11/954,086 : DECISION ON PETITION

Filed: December 11, 2007 :

Attorney Docket No. 228711-3

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 22, 2009, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 23, 2009.

The amendment filed February 12, 2010, is noted.

The application is being forwarded to Technology Center 3600, GAU 3663 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YAMAHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yoshihito FUKUOKA | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621792 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,093 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/11/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **27** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

**FOLEY HOAG, LLP**
**PATENT GROUP, WORLD TRADE CENTER WEST**
**155 SEAPORT BLVD**
**BOSTON, MA 02110**

MAILED

JUN 10 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Vogel et al. | : | DECISION ON PETITION |
| Application No. 11/954,109 | : | TO WITHDRAW |
| Filed: December 11, 2007 | : | FROM RECORD |
| Attorney Docket No. PMX-011.01 | : | |

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 April 27, 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. 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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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. |
|---|---|---|---|---|
| 11/954,116 | 12/11/2007 | Jae-sung LEE | 104-1306 | 3382 |

7590 07/30/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

| EXAMINER | |
|---|---|
| COLES, EDWARD L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2625 | |

| 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 APOWELL
12/12/2007 INTEFSW 00000259 11954116
02 FC:1111 -510.00 OP
04 FC:1202 -150.00 OP
05 FC:1201 -1050.00 OP

Adjustment date: 08/04/2009 APOWELL
10/28/2005 HTECKLUT 00000056 033975 11258863
02 FC:1111 500.00 CR

Adjustment date: 08/04/2009 BPOWELL
12/12/2007 INTEFS0 00000259 11954116
02 FC:1111 -510.00 OP
04 FC:1202 -150.00 OP
05 FC:1201 -1050.00 OP

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Alexandria, Virginia 22313-1450
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Harness Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Fabien G. Redon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606653 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,120 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/11/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Sandeep Mallya Perdoor | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7579975 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,209 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/11/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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PATTERSON & SHERIDAN, LLP
SUITE 100
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

MAILED

MAY 0 1 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Thomas C. Morse, et al. | : | |
| Application No. 11/954,275 | : | DECISION GRANTING PETITION |
| Filed: December 12, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. CMFL/046D1 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on April 24, 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 regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed letter.

/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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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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OCT 0 7 2008

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Link, Tosti, Frasch, Karnik, Wallen, and Bold | : | DECISION REFUSING STATUS |
| Application No. 11/954,337 | : | UNDER 37 CFR 1.47(a) |
| Filed: 12/12/2007 | : | |
| Attorney Docket No. FRD056 | : | |
| Title: HIGHLOFT NEEDLEPUNCHED NONWOVENS | : | |

This is in response to the petition under 37 CFR 1.47(a), filed Monday, August 11, 2008. Applicants obtained an extension of time for response within the fifth month. Accordingly, the petition is filed timely.

The petition is **dismissed**.

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

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

The Office notes that applicants have failed to submit sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. See MPEP 403.03(d). Applicants indicated that they believed that Mr. Wallen may have relocated to Washington, UT. Applicants asserted that they checked with directory information to obtain an address or phone number for the non-signing inventor. Applicants stated that the directory assistance informed them that no telephone number was listed anywhere in Washington, Utah for the name "Wallen" or in any of

the surrounding communities. However, it is unclear what further efforts applicants made to obtain a current address for Mr. Wallen (e.g. Internet search).

If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Applicants should submit documentary evidence such as the results of an E-mail or Internet search.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63. The declaration does not identify the country of citizenship of the non-signing inventor. Applicants are required by statute to identify the country of citizenship of each inventor in the oath or declaration. See 35 U.S.C. 115; 37 CFR 1.63(a)(3). This requirement cannot be waived. To correct the deficiency, applicants must submit a **newly** executed oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the residence, mailing address, and country of citizenship of each inventor, and is signed by the signing inventors on behalf themselves and the non-signing inventor. The signature line for the non-signing inventors may be left blank.

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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FEB 23 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Link, Tosti, Frasch, Karnik, Wallen, and Bold | : | DECISION ACCORDING STATUS |
| Application No. 11/954,337 | : | UNDER 37 CFR 1.47(a) |
| Filed: 12/12/2007 | : | |
| Attorney Docket No. FRD056 | : | |
| Title: HIGHLOFT NEEDLEPUNCHED NONWOVENS | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 6, 2009. Applicants obtained an extension of time for response within the first month. Accordingly, the petition is filed timely.

The petition is **GRANTED**.

Applicant showed that the non-signing inventor constructively refused to join in the filing of the above-identified application after having been mailed a complete copy of the application papers. Specifically, applicants established that they mailed the application papers via USPS Express Mail, return receipt requested, to the last known address of the non-signing inventor. Applicants stated that the non-signing inventor received the Express Mail package as evidenced by his signature on the return receipt. However, the inventor did not respond to the request to sign the declaration.

The above-identified application and papers have been reviewed and are found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

With the present renewed petition, applicants submitted a second surcharge for the late filing of an oath or declaration in the amount of $130.00. As this fee is unnecessary, the Office will refund $130.00 to applicants' credit card.

This application is being referred to Technology Center Art Unit 3765.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph Wallen
2714 East Cross Point Dr.
Washington, UT 84780

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Link, Tosti, Frasch, Karnik, Wallen, and Bold :
Application No. 11/954,337 : LETTER
Filed: 12/12/2007 :
Attorney Docket No. FRD056 :
Title: HIGHLOFT NEEDLEPUNCHED :
NONWOVENS :

Dear Mr. Wallen:

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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NIDEC CORPORATION
c/o KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yoshio FUJII | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646127 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,390 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **67** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/06/2010

| | | |
|---|---|---|
| **Applicant** | : Lee D. Whetsel | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613970 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/954,403 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **39** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

THE LUTHER LAW FIRM
12198 E. COLUMBINE DR.
SCOTTSDALE AZ 85259

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APR 11 2008

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Juan Sanchez-Ramos et al. | : | |
| Application No. 11/954,473 | : | DECISION ON PETITION |
| Filing Date: December 12, 2007 | : | PURSUANT TO |
| Attorney Docket No.: USF-06CIA | : | 37 C.F.R. § 1.53 |
| Title: BONE MARROW-DERIVED | : | |
| NEURONAL CELLS | : | |

This is a decision on the petition filed March 6, 2008, requesting that the above-identified application be accorded a filing date of December 11, 2007.

This petition is **DISMISSED**.

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

The first sentence of the specification of this application indicates that this application is a continuation-in-part of prior filed application number 10/353,742. A final Office action was mailed in application number 10/353,742 on June 11, 2007. Therefore, the maximum extendable period for submitting a response to this Office communication expired on December 11, 2007. Consequently, in order for application number 11/954,473 to claim the benefit of prior filed application number 10/353,742, this latter-filed application would have had to be filed no later than December 11, 2007.

Petitioner has set forth that on the evening of December 11, 2007, she attempted to file this application via the Electronic

Filing System (EFS). Petitioner commenced this process at 5:00 PM, Eastern Standard Time. She has indicated:

> The EFS website was down. We repeatedly checked it until 11:45 East Coast time, at which time is started accepting our information for U.S. Serial No. 11/954473.
>
> Petition, page 2.

Petitioner has added that it took her until "a few minutes after midnight" to enter the required information, and she received a filing receipt that "erroneously shows 12:45 on December 12[1]" as the filing information.

Petitioner has added that at 10:56 PM Mountain Time (12:26 AM Eastern Standard Time), she deposited the application in a "free-standing, self-contained postage center that accepts all mail at all hours and locks such mail inside[2]." The USPS later picked up this package, and the Express Mail receipt was marked with December 12, 2007 as the receipt date.

Petitioner has requested that the Office accord the present application a filing date of December 11, 2007, so that the present application can claim the benefit of the above-mentioned prior-filed non-provisional parent application.

Petitioner's submission has been considered, and it has not been found to be persuasive for the following four reasons.

First, 35 U.S.C. § 111(a)(4) sets forth, in pertinent part, "the filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." As set forth on the Office's website (http://www.uspto.gov/ebc/portal/efs/legal.htm):

> Thus, the filing date of an application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of your newly filed application. There is no

1 Petition, page 2.
2 Id.

> "certificate of transmission" practice for new application e-filings (37 CFR 1.8).
>
> Emphasis added.

35 U.S.C. §111(a)(4) prohibits the Office from according an application a filing date that is prevenient to the receipt of the specification and any required drawings. The specification and drawings which are associated with the present application were not received until December 12, 2007, and as such, the information that appears on the acknowledgment receipt appears to be accurate, and this application cannot be accorded a filing date of December 11, 2007.

Second, there is a record of there being an outage of EFS-Web on December 11, 2007, from 2:15 PM until 10:15 PM, Eastern Standard Time. There is no record of there being an outage of EFS-Web subsequent to 10:15 PM on this date, and as such, it is not clear why Petitioner was not unable to access EFS-Web until 11:45 PM, Eastern Standard Time.

Third, it is not clear what prevented Petitioner from filing the application via Express Mail. It is noted that a check of the USPS website reveals that there is at least one USPS location in the Scottsdale area that has extended lobby hours.

Fourth, Petitioner has set forth that the Applicant "very careful (sic) shepherds is finances and frequently cannot release funds to go forward with prosecution until close to a deadline[3]." As a result, Petitioner waited until the last possible day provided in 35 U.S.C. § 120 to complete the application in final form for filing[4]. While an applicant may wait until the last day to file an application in order to establish continuity, the applicant does so at his or her peril. Those who file at the end of a statutory bar year (35 U.S.C. § 102(b)) or a priority year (35 U.S.C. § 119) or who delay filing a continuing application until the last possible day for establishing continuity (35 U.S.C.

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3 Petition, page 1.

4 "An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application." Emphasis added.

§§ 120 or 121), do not leave any opportunity to overcome any error that might occur in filing the application. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his or her delay[5].

The petition fee of $400 will not be refunded, as this petition does not appear to have been necessitated by any error on the part of the Office.

This application will be referred to the Office of Patent Application Processing OPAP) for 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[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 In re Dubost, 231 USPQ 887, 889 (Comm'r Pat. 1986). *See* also In re Harding et al., 211 USPQ 903, 905 (Comm'r Pat. 1980) and *Ex parte Sassin*, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906), and compare Ziegler v. Baxter v. Natta, 159 U.S.P.Q. 378, 379 (Comm'r Pat. 1968).

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 further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

THE LUTHER LAW FIRM
12198 E. COLUMBINE DR.
SCOTTSDALE AZ 85259

COPY MAILED

JUL 21 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Juan Sanchez-Ramos et al. | : | |
| Application No. 11/954,473 | : | DECISION ON RENEWED |
| Filing Date: December 12, 2007 | : | PETITION PURSUANT TO |
| Attorney Docket No.: USF-06CIA | : | 37 C.F.R. § 1.53 |
| Title: BONE MARROW-DERIVED | : | |
| NEURONAL CELLS | : | |

This is a decision on the renewed petition filed July 11, 2008, requesting that the above-identified application be accorded a filing date of December 11, 2007.

This renewed petition is **DISMISSED.**

The first sentence of the specification of this application indicates that this application is a continuation-in-part of prior filed application number 10/353,742. A final Office action was mailed in application number 10/353,742 on June 11, 2007. Therefore, the maximum extendable period for submitting a response to this Office communication expired on December 11, 2007. Consequently, in order for application number 11/954,473 to claim the benefit of prior filed application number 10/353,742, this latter-filed application would have had to be filed no later than December 11, 2007.

An original petition was filed on March 6, 2008, where Petitioner set forth that on the evening of December 11, 2007, she attempted to file this application via the Electronic Filing System (EFS). Petitioner commenced this process at 5:00 PM, Eastern Standard Time. She indicated:

> The EFS website was down. We repeatedly checked it until 11:45 East Coast time, at which time is started accepting our information for U.S. Serial No. 11/954473.
>
> Original Petition, page 2.

Petitioner has added that it took her until "a few minutes after midnight" to enter the required information, and she received a filing receipt that "erroneously shows 12:45 on December 12[1]" as the filing information.

Petitioner has requested that the Office accord the present application a filing date of December 11, 2007, so that the present application can claim the benefit of the above-mentioned prior-filed non-provisional parent application.

The original petition was dismissed via the mailing of a decision on April 11, 2008, which gave four reasons for dismissing the original petition.

Petitioner's renewed submission has been considered, and it has not been found to be persuasive for the following reasons.

1. The waiver of a statute is beyond the authority of the Office:

The decision on the original petition set forth, in pertinent part:

> 35 U.S.C. § 111(a)(4) sets forth, in pertinent part, "the filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." As set forth on the Office's website (http://www.uspto.gov/ebc/portal/efs/legal.htm):
>
> Thus, the filing date of an application is the date of receipt of the application in the USPTO. Further, the USPTO is located in the Eastern Standard Time zone. Accordingly, the date of filing of an application officially submitted through EFS-Web will be the date in the Eastern Standard Time zone at the time of submission. As such, the submission's "date of receipt", as shown on the Acknowledgement Receipt, is the Eastern Standard Time date that the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen. This date is controlling for filing date purposes of your newly filed application. There is no "certificate of transmission" practice for new application e-filings (37 CFR 1.8).
>
> Emphasis included.

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1 Original Petition, page 2.

With this renewed petition, nothing has changed. 35 U.S.C. § 111(a)(4) prohibits the Office from according an application a filing date that is prevenient to the receipt of the specification and any required drawings. The specification and drawings which are associated with the present application were not received until December 12, 2007[2], and as such, this application cannot be accorded a filing date of December 11, 2007.

With this renewed petition, Petitioner has argued that the application was filed on December 11, 2007. However when filing electronically, **an application is not considered to be filed until the documents are fully, successfully, and officially received at the USPTO**, and Petitioner's documents were not fully, successfully, and officially received at the USPTO until December 12, 2007.

Petitioner has alleged "[I]t is not clear from the information in the undersigned's possession that the necessary elements of the patent application were not already in the Office's possession before 10:00 p.m. MST (12:00 midnight EST[3])." However, by Petitioner's own admission, "the steps of inputting and filing continued until a few minutes after 10:00 MST (a few minutes after midnight, EST[4])." More specifically, Petitioner has indicated that this application was not filed until 12:13 AM, Eastern Standard Time, on December 12, 2007[5].

As set forth above, the according of a filing date is set forth by statute. The act of according this application a filing date of December 11, 2007 would require the Office to waive or suspend the requirements of 35 U.S.C. §111(a)(4), and **the waiver or suspension of the requirements of a statute is beyond the discretion or the authority of the Office**[6].

*Assuming arguendo* that the Office has the authority to waive or suspend a statute, and *assuming arguendo* that Petitioner has

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2 See declaration submitted concurrently with this renewed petition, paragraph 4, where it was set forth that the electronic filing in question was completed at 12:13 AM on December 12, 2007.

3 Renewed petition, page 2.

4 Id. See also original petition, page 2.

5 Declaration submitted concurrently with this renewed petition, paragraph 4.

6 See A. F. Stoddard & Co. v. Dann, 184 U.S. App. D.C. 71, 564 F.2d 556, 1977 U.S. App. LEXIS 11815, 195 U.S.P.Q. (BNA) 97 (1977) ("Executive Branch agencies, such as the PTO, having the obligation to carry out their duties under their authorizing statutes, and if they would avoid an exercise of the powers of another Branch, must in almost every case, follow the strict provisions of the applicable statute.")

requested the waiver of 35 U.S.C. § 111(a)(4), and *assuming arguendo* that the Office has granted this request, the remainder of Petitioner's arguments will be considered.

2. The Timing of the Outage of EFS-Web

The decision on the original petitions set forth, in pertinent part:

> Second, there is a record of there being an outage of EFS-Web on December 11, 2007, from 2:15 PM until 10:15 PM, Eastern Standard Time. There is no record of there being an outage of EFS-Web subsequent to 10:15 PM on this date, and as such, it is not clear why Petitioner was not unable to access EFS-Web until 11:45 PM, Eastern Standard Time.

With this renewed petition, Petitioner has asserted that "it has not been established exactly when the quality of service experienced by EFS-Web filers was restored to normal on the evening of December 11, 2007..there is doubt about the ending time of the interruption...[7]." There is no doubt about the ending time of the interruption: quality of service experienced by EFS-Web filers was restored to normal upon the cessation of the outage at 10:15 PM, Eastern Standard time. As such, there is no reason that Petitioner would not have been able to successfully upload her documents at this time, had she attempted to upload her documents at this time.

With this renewed petition, Petitioner has set forth that she first attempted to file this application electronically at 5:00 PM, Eastern Standard Time[8]. She tried again, "later in the afternoon[9]," and made several "subsequent attempts[10]," however the system was still down. Petitioner has not revealed the times at which these attempts were made. The final attempt was made at 11:45 PM, Eastern Standard Time[11]. As such, is appears that no attempt was made between 10:15 PM, Eastern Standard Time and 11:44 PM, Eastern Standard Time.

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7 Renewed petition, page 5.
8 Declaration submitted concurrently with this renewed petition, paragraph 1.
9 Id. at 2.
10 Id. at 3.
11 Id. at 4.

3. The filing via Express Mail

At 10:56 PM Mountain Time (12:26 AM Eastern Standard Time), Petitioner deposited the application in a "free-standing, self-contained postage center that accepts all mail at all hours and locks such mail inside[12]." The USPS later picked up this package, and the Express Mail receipt was marked with December 12, 2007 as the receipt date. A copy of the same was not provided with either the original or the renewed petitions.

However, in the original petition, Petitioner indicated that "hand-processing did not occur until the next day[13]," and as such, it does not appear that this deposit was made prior to the last scheduled pickup for that day. As such, it appears that the date that was purportedly placed on the Express Mail label was the correct date.

4. The decision to wait until the last minute to file this application:

The decision on the original petition set forth, in pertinent part:

> Fourth, Petitioner has set forth that the Applicant "very careful (sic) shepherds is finances and frequently cannot release funds to go forward with prosecution until close to a deadline[14]." As a result, Petitioner waited until the last possible day provided in 35 U.S.C. § 120 to complete the application in final form for filing[15]. While an applicant may wait until the last day to file an application in order to establish continuity, the applicant does so at his or her peril. Those who file at the end of a statutory bar year (35 U.S.C. § 102(b)) or a priority year (35 U.S.C. § 119) or who delay filing a continuing application until the last possible day for establishing continuity (35 U.S.C. §§ 120 or 121), do not leave any opportunity to overcome any error that might occur in filing the application. The Office, where it has the power to do so, should not relax the requirements of

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12 Original petition, page 2.
13 Id.
14 Petition, page 1.
15 "An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application." Emphasis added.

> established practice in order to save an applicant from the consequence of his or her delay[16].

With this renewed petition, Petitioner has characterized these legal authorities as "old decisions[17]," and has set forth "[t]imes have changed[18]." However, it is noted with interest that Petitioner has not alleged that any of the relied upon case law has been overturned. In lieu thereof, Petitioner has set forth a plurality of arguments directed towards policy considerations, however the fact remains that the established legal precedent dictates that "[t]he Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his or her delay."

As set forth above, it is the established and well-publicized practice of the Office that the filing of an application via EFS-Web is not complete until "the documents are fully, successfully, and officially received at the USPTO as indicated by pressing the Submit Button on the Confirm and Submit screen." This did not occur until 12:13 AM, Eastern Standard Time, on December 12, 2007. Applicant would have the Office accord this application a filing date of December 11, 2007 due to the fact that she attempted to file this application prior to midnight, coupled with a plurality of policy considerations. However as set forth above, the established practice of the Office will not be relaxed in order to save Petitioner from the consequence of her delay in filing this application.

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.53". 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[19], hand-delivery[20], or facsimile[21].

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16 In re Dubost, 231 USPQ 887, 889 (Comm'r Pat. 1986). *See* also In re Harding et al., 211 USPQ 903, 905 (Comm'r Pat. 1980) and *Ex parte Sassin*, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906), and compare Ziegler v. Baxter v. Natta, 159 U.S.P.Q. 378, 379 (Comm'r Pat. 1968).
17 Renewed petition, page 4.
18 Id.
19 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
20 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[22].

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.

After decision on the second renewed petition, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on second renewed petition, it is extremely important that Petitioner supply **any** and **all** relevant information and documentation in order to meet her burden of establishing that this application should be accorded a filing date of December 11, 2007. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

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[23].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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21 (571) 273-8300- please note this is a central facsimile number.
22 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
23 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

NIDEC CORPORATION
c/o KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Yoshio FUJII | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7612480 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,486 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING, MD 20910

COPY MAILED

MAR 11 2010

In re Application of
Cornell Drajan
Application No. 11/954,515
Filed: December 12, 2007
Attorney Docket No. 6128

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 28, 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 Charles Fallow on behalf of all attorneys of record who are associated with customer No. 26936. All attorneys/agents associated with the Customer Number 26936 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to timely reply to the outstanding Office action mailed July 27, 2009.

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: CORNELL DRAJAN
976 SPICER COVE ROAD
HENDERSONVILLE, NC 28792

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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 |
|---|---|---|---|
| 11/954,515 | 12/12/2007 | Cornell Drajan | 6128 |

**CONFIRMATION NO. 4046**

**POWER OF ATTORNEY NOTICE**

26936
SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING, MD 20910

Date Mailed: 03/03/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/28/2009.

- 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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Alexandria, VA 22313-1450
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MAILED

MAR 25 2010

OFFICE OF PETITIONS

GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH MA 01752

In re Application of :
Guo Qiang Wang :
Application No. 11/954,547 : DECISION ON PETITION
Filed: December 12, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NOR-132 (18425ROUS02U) :

This is a decision on the petition, filed December 5, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 23, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 27, 2010 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 2475 for examination in due course.

Terri Johnson
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 |
|---|---|---|---|---|---|---|
| 11/954,547 | 12/12/2007 | 2475 | 2280 | NOR-132 (18425ROUS02U) | 45 | 3 |

**CONFIRMATION NO. 4097**

**CORRECTED FILING RECEIPT**

32836
GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

*OC000000040755170*

Date Mailed: 03/23/2010

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)**

Guo Qiang Wang, Kanata, CANADA;

**Assignment For Published Patent Application**

NORTEL NETWORKS LIMITED, St. Laurent, CANADA

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/931,355 05/23/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/07/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/954,547**

**Projected Publication Date:** 05/27/2010

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

SIP-Enabled Framework for Multi-Domain Roaming Control Plane in a WiMAX Access Network

**Preliminary Class**

370

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

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

**GRANTED**

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

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

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

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

**NOT GRANTED**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ORRICK HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614-2558

COPY MAILED

JAN 12 2009

| | | |
|---|---|---|
| In re Application of | : | |
| Kimio Koizumi et al | : | |
| Application No. 11/954,548 | : | DECISION ON PETITION |
| Filed: December 12, 2007 | : | UNDER 37 CFR 1.55(c) |
| Attorney Docket No. 708493.4024 | : | |

This is a decision on the petition under 37 CFR 1.55(c), filed November 19, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japan Application No. 2006-350760, filed December 27, 2006.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. 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.

This application was filed on December 12, 2007, which is after November 29, 2000 and within 12 months of December 27, 2006 (the filing date of the foreign application to which benefit is now being claimed). On December 15, 2008, an executed Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1410 was received with petition on November 19, 2008. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.***

A Corrected Filing Receipt accompanies this decision on petition.

This application is being referred to Technology Center AU 1797 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/954,548 | 12/12/2007 | 1797 | 1160 | 708493.4024 | 5 | 1 |

**CONFIRMATION NO. 4101**

**CORRECTED FILING RECEIPT**

34313
ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Date Mailed: 01/08/2009

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

**Applicant(s)**

Kimio Koizumi, Kanagawa-ken, JAPAN;

**Power of Attorney:** The patent practitioners associated with Customer Number 34313

**Domestic Priority data as claimed by applicant**

**Foreign Applications**
JAPAN 2006-350760 12/27/2006

Request to Retrieve - This application either claims priority to one or more applications filed in an intellectual property Office that participates in the Priority Document Exchange (PDX) program or contains a proper **Request to Retrieve Electronic Priority Application(s)** (PTO/SB/38 or its equivalent). Consequently, the USPTO will attempt to electronically retrieve these priority documents.

**If Required, Foreign Filing License Granted:** 01/07/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/954,548**

**Projected Publication Date:** 03/19/2009

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN STRATIFIED SCAVENGING ENGINE

**Preliminary Class**

261

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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.

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**NOT GRANTED**

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---|---|---|---|
| Appl. No. | : | 11/954548 | Confirmation No.: 4101 |
| Applicant | : | Kimio Koizumi | |
| Filing Date | : | December 12, 2007 | |
| Title | : | INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN A STRATIFIED SCAVENGING ENGINE | |
| Group Art Unit | : | 3747 | |
| Examiner | : | To be assigned | |
| Docket No. | : | 708493.4024 | |
| Customer No. | : | 34313 | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION FOR UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. SECTION 119 PURSUANT TO 37 CFR § 1.55(c)**

Sir:

When the present application was filed Applicant was unaware that a claim of priority was not made under 35 USC § 119 to Japanese Patent Application No. 2006-350760 filed December 27, 2006. The attached [proposed] priority claim under 35 USC § 119 includes the entire priority claim as follows:

This application expressly claims foreign priority benefit under 35 USC § 119 (a) – (d) to application Serial no. 2006-350760, filed December 27, 2006, in Japan.

Accordingly, Applicant petitions to accept the foregoing claim of priority and attaches a proposed claim of priority to this petition.

The entire delay between the filing date and the date of the present petition was unintentional. The Commissioner is authorized to charge all fees which may be required in connection with this Petition to deposit account No. 15-0665.

Respectfully submitted,

Dated: November 19, 2008

By: / Kenneth S. Roberts/
Kenneth S. Roberts
Registration No. 38,283

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614
949/567-6700 Telephone
949/567-6710 Facsimile

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---|---|---|---|
| Appl. No. | : | 11/945548 | Confirmation No.: 5817 |
| Applicant | : | Kimio Koizumi | |
| Filing Date | : | December 12, 2007 | |
| Title | : | INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN A STRATIFIED SCAVENGING ENGINE | |
| Group Art Unit | : | 3747 | |
| Examiner | : | To be assigned | |
| Docket No. | : | 708493.4025 | |
| Customer No. | : | 34313 | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**CLAIM OF PRIORITY UNDER 35 U.S.C. SECTION 119**

Sir:

Applicant hereby claims foreign priority benefit under 37 U.S.C. 119 be entered in the above-identified patent application as set forth below:

This application expressly claims foreign priority benefit under 35 USC § 119 (a) – (d) to application Serial no. 2006-350760, filed December 27, 2006, in Japan.

Respectfully submitted,

Dated: November 19, 2008

By: /Kenneth S. Roberts/
Kenneth S. Roberts
Registration No. 38,283

Orrick, Herrington & Sutcliffe LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614
949/567-6700 Telephone
949/567-6710 Facsimile

PTO/SB/14 (07-07)
Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

| Application Data Sheet 37 CFR 1.76 | Attorney Docket Number | 708493.4024 |
|---|---|---|
| | Application Number | 11/954548 |
| Title of Invention | INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN STRATIFIED SCAVENGING ENGINE | |

The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76.
This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.

## Secrecy Order 37 CFR 5.2

☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

## Applicant Information:

**Applicant 1**

**Applicant Authority** ◉ Inventor ○ Legal Representative under 35 U.S.C. 117 ○ Party of Interest under 35 U.S.C. 118

| Prefix | Given Name | Middle Name | Family Name | Suffix |
|---|---|---|---|---|
| | Kimio | | Koizumi | |

**Residence Information (Select One)** ◉ US Residency ○ Non US Residency ○ Active US Military Service

| City | Isehara-shi | State/Province | | Country of Residence i | Japan |
|---|---|---|---|---|---|

**Citizenship under 37 CFR 1.41(b)** i

**Mailing Address of Applicant:**

| Address 1 | 1377 Sannomiya, Isehara-shi, Kanagawa-ken |
|---|---|
| Address 2 | |

| City | Isehara-shi | State/Province | Kanagawa-ken |
|---|---|---|---|
| Postal Code | 259-103 | Country i | Japan |

All Inventors Must Be Listed - Additional Inventor Information blocks may be generated within this form by selecting the **Add** button. Add

## Correspondence Information:

**Enter either Customer Number or complete the Correspondence Information section below.**
**For further information see 37 CFR 1.33(a).**

☒ **An Address is being provided for the correspondence Information of this application.**

| Customer Number | 34313 | | |
|---|---|---|---|
| Email Address | ipprosecution orrick.com | Add Email | Remove Email |

## Application Information:

| Title of the Invention | INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN STRATIFIED SCAVENGING ENGINE | | |
|---|---|---|---|
| Attorney Docket Number | 708493.4024 | Small Entity Status Claimed | ☐ |
| Application Type | Regular | | |
| Subject Matter | rotor for rotary carburetor | | |
| Suggested Class (if any) | | Sub Class (if any) | |
| Suggested Technology Center (if any) | 3747 | | |
| Total Number of Drawing Sheets (if any) | 8 | Suggested Figure for Publication (if any) | |

PTO/SB/14 (07-07)
Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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| Application Data Sheet 37 CFR 1.76 | Attorney Docket Number | 708493.4024 |
|---|---|---|
| | Application Number | 11/954548 |
| Title of Invention | INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN STRATIFIED SCAVENGING ENGINE | |

## Publication Information:

| | |
|---|---|
| ☐ | Request Early Publication (Fee required at time of Request 37 CFR 1.219) |
| ☐ | **Request Not to Publish.** I hereby request that the attached application not be published under 35 U.S. C. 122(b) and certify 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 international agreement, that requires publication at eighteen months after filing. |

## Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32). Enter either Customer Number or complete the Representative Name section below. If both sections are completed the Customer Number will be used for the Representative Information during processing.

| Please Select One: | ◉ Customer Number | ○ US Patent Practitioner | ○ Limited Recognition (37 CFR 11.9) |
|---|---|---|---|
| Customer Number | 35313 | | |

## Domestic Benefit/National Stage Information:

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

| Prior Application Status | | | Remove |
|---|---|---|---|
| Application Number | Continuity Type | Prior Application Number | Filing Date (YYYY-MM-DD) |
| | | | |

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the **Add** button.

## Foreign Priority Information:

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

Remove

| Application Number | Country [i] | Parent Filing Date (YYYY-MM-DD) | Priority Claimed |
|---|---|---|---|
| 2006-350760 | Japan | 12/27/2006 | ◉ Yes ○ No |

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button.

## Assignee Information:

Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.

**Assignee 1** ZAMA JAPAN KABUSHIKI KAISHA

PTO/SB/14 (07-07)
Approved for use through 08/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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| Application Data Sheet 37 CFR 1.76 | Attorney Docket Number | 708493.4024 |
|---|---|---|
| | Application Number | 11/954548 |
| Title of Invention | INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN STATIFIED SCAVENGING ENGINE | |

If the Assignee is an Organization check here. [X]

| Prefix | Given Name | Middle Name | Family Name | Suffix |
|---|---|---|---|---|
| | | | | |

**Mailing Address Information:**

| | | | |
|---|---|---|---|
| **Address 1** | 154-14 Daini-Chiwari Obuke | | |
| Address 2 | | | |
| **City** | Hachimantai-shi, Iwate | **State/Province** | |
| **Country** [i] | Japan | Postal Code | 028-7111 |
| Phone Number | | Fax Number | |
| Email Address | | | |

Additional Assignee Data may be generated within this form by selecting the **Add** button.

## Signature:

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 form of the signature.

| | | | | | |
|---|---|---|---|---|---|
| **Signature** | Kenneth S. Roberts | | | Date (YYYY-MM-DD) | 12/5/2008 |
| First Name | Kenneth S. | Last Name | Roberts | Registration Number | 38,283 |

This collection of information is required by 37 CFR 1.76. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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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Bib Data Sheet

**CONFIRMATION NO. 4101**

| SERIAL NUMBER | FILING OR 371(c) DATE | CLASS | GROUP ART UNIT | ATTORNEY DOCKET NO. |
|---|---|---|---|---|
| 11/954,548 | 12/12/2007<br>RULE | 261 | 1797 | 708493.4024 |

**APPLICANTS**

Kimio Koizumi, Kanagawa-ken, JAPAN;

**** CONTINUING DATA ***************************

**** FOREIGN APPLICATIONS *********************

JAPAN 2006-350760 12/27/2006

**IF REQUIRED, FOREIGN FILING LICENSE GRANTED**
** 01/07/2008

| | | STATE OR COUNTRY | SHEETS DRAWING | TOTAL CLAIMS | INDEPENDENT CLAIMS |
|---|---|---|---|---|---|
| Foreign Priority claimed ☐ yes ☐ no<br>35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance<br>Verified and Acknowledged _____ Examiner's Signature Initials | | JAPAN | 8 | 5 | 1 |

**ADDRESS**
34313

**TITLE**
INTERNAL SHAPE OF ROTOR FOR TWO-BORE ROTARY CARBURETOR USED IN STRATIFIED SCAVENGING ENGINE

| FILING FEE RECEIVED | | |
|---|---|---|
| 1160 | FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following: | ☐ All Fees<br>☐ 1.16 Fees ( Filing )<br>☐ 1.17 Fees ( Processing Ext. of time )<br>☐ 1.18 Fees ( Issue )<br>☐ Other _____<br>☐ Credit |

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MAY 30 2008

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

| | |
|---|---|
| In re Application of: | : |
| David L. Pazdernik | : |
| Serial No.: 11/954,571 | : PETITION DECISION |
| Filed: December 12, 2007 | : |
| Attorney Docket No.: 1423-139 | |

This is in response to the petition under 37 CFR § 1.59(b), filed May 22, 2008, 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 May 22, 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.

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/Program Manager
Technology Center 1600

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MAY 0 8 2009

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
David L. Pazdernik
Serial No.: 11/954,571
Filed: December 12, 2007
Attorney Docket No.: 1423-139

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 5, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on May 22, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/954,573 | 12/12/2007 | Larry D. Knerr | 1484-023 | 4149 |

32905 7590 06/13/2008
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

| EXAMINER | |
|---|---|
| KRUSE, DAVID H | |
| ART UNIT | PAPER NUMBER |
| 1638 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/13/2008 | 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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858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

JUN 13 2008

In re Application of:
Larry D. Knerr
Serial No.: 11/954,573
Filed: December 12, 2007
Attorney Docket No.: 1484-023

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed June 5, 2008, 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 5, 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.

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/Program Manager
Technology Center 1600

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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.: 11/954,573
Filed: December 12, 2007
Attorney Docket No.: **1484-023**

: 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 5, 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/954,596 | 12/12/2007 | Stewart A. Levin | 33849-125 | 4196 |

30903 7590 10/29/2009

CRAIN, CATON & JAMES
FIVE HOUSTON CENTER
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| EXAMINER | |
|---|---|
| SUGLO, JANET L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2857 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/29/2009 | ELECTRONIC |

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

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

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

wjensen@craincaton.com
jhudson@craincaton.com
mhayden@craincaton.com

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FIVE HOUSTON CENTER
1401 MCKINNEY, 17TH FLOOR
HOUSTON, TX 77010

| | | |
|---|---|---|
| *In re* Application of Stewart A. Levin | : | |
| Appl. No.: 11/954,596 | : | DECISION ON PETITION |
| Filed: December 12, 2007 | : | UNDER 37 C.F.R. §1.59 |
| Attorney Docket No.: 33849-125 | : | |
| For: SYSTEMS AND METHODS FOR ENHANCING A SEISMIC DATA IMAGE | : | |

This is a decision on the petition under 37 C.F.R. §1.59(b), filed December 5, 2008, to expunge information filed concurrently therewith from the above-identified application. The application has been allowed and a Notice of Allowance and Fee(s) Due was mailed on June 25, 2009.

The petition is GRANTED.

Petitioner asserts that the references cited in the Information Disclosure Statement (IDS), filed on December 5, 2008, are trade secret materials and the information has not been made public.

The information in question has been determined by the examiner of record and by the undersigned to not be material to the examination of the instant application and may be expunged. The expunged material has been removed from the official file. Since the material was inadvertently scanned and the original is no longer available, it is not being returned with this decision.

Applicant is required to retain the expunged material(s) for the life of any patent which issues from the above-identified application.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/954,596 | 12/12/2007 | Stewart A. Levin | 33849-125 | 4196 |

30903 7590 02/05/2010

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HOUSTON, TX 77010

| EXAMINER | |
|---|---|
| SUGLO, JANET L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2857 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/05/2010 | 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):

wjensen@craincaton.com
jhudson@craincaton.com
ipdocket@craincaton.com

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HOUSTON, TX 77010

| | | |
|---|---|---|
| *In re* Application of Stewart A. Levin | : | |
| Appl. No.: 11/954,596 | : | DECISION ON PETITION |
| Filed: December 12, 2007 | : | UNDER 37 C.F.R. §1.59 |
| Attorney Docket No.: 33849-125 | : | |
| For: SYSTEMS AND METHODS FOR ENHANCING A SEISMIC DATA IMAGE | : | |

This is a decision on the petition under 37 C.F.R. §1.59(b), filed January 6, 2010, to expunge a reference cited in a Second Supplemental Information Disclosure Statement filed December 5, 2008. The application has been allowed and a Notice of Allowance and Fee(s) Due was mailed on June 25, 2009.

The petition is DENIED.

Petitioner asserts that the reference titled "OpenWorks Sections, 2004, 12 pages" cited in the Second Supplemental Information Disclosure Statement (IDS), filed on December 5, 2008, is believed to be a trade secret material that has not been made public.

The information in question was not submitted as trade secret information as set forth in M.P.E.P. § 724.02 and the instant petition to expunge was not filed at the time the information in question was submitted but was filed after the notice of allowability has been mailed. Pursuant to M.P.E.P. § 724.05.I. the information requested to be expunged will remain therein and be open to the public in accordance with 37 C.F.R. § 1.14.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.

John W. Cabeca, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mark David Bedillion | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7570451 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,616 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

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

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

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

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

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

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**MICHAEL BEST & FRIEDRICH LLP**
**100 EAST WISCONSIN AVENUE**
**MILWAUKEE WI 53202**

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AUG 26 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Paul Fisher et al | : | |
| Application No. 11/954,631 | : | DECISION GRANTING PETITION |
| Filed: December 12, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 081276-9262-00 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on August 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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JAN 25 2008

TECHNOLOGY CENTER 3600

Fish & Associates, PC
Robert D. Fish
2603 Main Street
Suite 1050
Irvine, CA 92614-6232

In re application of
Scott Struthers et al.
Application No. 11/954,667
Filed: December 12, 2007
For: DEVICES AND METHODS FOR FLANGELESS INSTALLATIONS

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

This is a decision on the petition filed on December 12, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;
6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition in this case fails to comply with conditions II.5.2, II.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, with respect to the classification search, in addition to the areas already searched, the search needs to include a search of 52/204.1 (where the invention is classified) and 52/205, 206, and 220.8.

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 (not just the independent claims) are patentable over each of the cited references, which 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, at least some of the dependent claims (at least claims 2, 4, 5, 7, and 9-10) appear to have their limitations admittedly taught by the cited prior art. Also, when explaining that a limitiation is not taught by the prior art it should be made clear which specific portion of the limitation is not taught or make it clear that no part of the limitation is taught by any of the references. In addition, any indication of patentability over the prior art references needs to take in to account any distinctions seen as being obvious over any single or a combination of cited references.

The USPTO website has an example of the proper manner of documenting limitations taught by cited art, and the manner of explaining claim patentability over the references, for an Accelerated Examination Support Document at:
http://www.uspto.gov/web/patents/accelerated/.

As to condition to II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is sufficient. However, similar support (if any) for the claimed invention must additionally be shown in any parent application upon which priority is claimed under 35 USC 119 or 35 USC 120. While the manner of showing support appears to be acceptable, the priority documents don't appear to match those listed in the Application Data Sheet. Specifically, Provisional 1 and Provisional 2 are the same applications in the Support Document. Furthermore, US 1 would appear to actually need to be 11/566,365 and not 11/548,381. Correction is needed.

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

DECISION

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

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

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

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Steven N. Meyers, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 1/24/08

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MAR 06 2008

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Fish & Associates, PC
Robert D. Fish
2603 Main Street
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In re application of
Scott Struthers et al.
Application No. 11/954,667
Filed: December 12, 2007
For: DEVICES AND METHODS FOR FLANGELESS INSTALLATIONS

: **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 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 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: 3/5/08

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. |
|---|---|---|---|---|
| 11/954,700 | 12/12/2007 | Yanjiang FAN | 4462BBOT-1 | 4375 |

7590 06/30/2009

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

| EXAMINER | |
|---|---|
| CHUNG, DAVID Y | |
| **ART UNIT** | **PAPER NUMBER** |
| 2871 | |
| **MAIL DATE** | **DELIVERY MODE** |
| 06/30/2009 | 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: 06/30/2009 BPOWELL
12/12/2007 INTEFSW 00007139 191970 11954700
02 FC:1111 510.00 CR

Adjustment date: 06/30/2009 BPOWELL
12/12/2007 INTEFSW 00007139 191970 11954700
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/954,732 | 12/12/2007 | Sang Sin PARK | 0008.1065 | 4437 |

7590 01/30/2009

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

| EXAMINER | |
|---|---|
| LEE, SUSAN SHUK YIN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2852 | |

| 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 0030066282

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1027

Adjustment date: 02/04/2009 NFARMER
12/13/2007 INTEFSW 00000052 11954732
02 FC:1111 -510.00 OP

Best Available Copy

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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
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/954,747 | 12/12/2007 | Se Bong KIM | KSA-0132 | 4466 |

7590 04/23/2009

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

| EXAMINER |
|---|
| KIM, DENNIS Y |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2881 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/23/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/22/2009 NFARMER
12/13/2007 INTEFSW 00000150 061130 11954747
02 FC:1111 510.00 CR

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/954,747 | 12/12/2007 | Se Bong KIM | KSA-0132 | 4466 |

7590 04/23/2009

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

| EXAMINER |
|---|
| KIM, DENNIS Y |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2881 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/23/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/22/2009 NFARMER
12/13/2007 INTEFSW 00000150 061130 11954747
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**Verizon**
**Patent Management Group**
**1320 North Court House Road**
**9th Floor**
**Arlington, VA 22201-2909**

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of
James T. McConnell et al.
Application No. 11/954,764
Filed: December 12, 2007
Attorney Docket No. 20070339

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of File Corrected Application Papers, mailed January 14, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 15, 2008. A Notice of Abandonment was mailed on September 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly the replacement drawings are accepted as being unintentionally delayed.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received November 13, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: David J. O'Neill
1515 North Courthouse Road
Arlington, VA 22201

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. |
|---|---|---|---|---|
| 11/954,774 | 12/12/2007 | Sung-hee HWANG | 0001.1017C7 | 4510 |

7590 07/24/2009

STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

| EXAMINER | |
|---|---|
| CHOW, VAN NGUYEN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/24/2009 | ELECTRONIC |

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

*The declaration of express abandonment is recognized*

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 07/23/2009 BPOWELL
12/13/2007 INTERSU 00000367 11954774
02 FC:1111 -510.00 OP

Adjustment date: 07/23/2009 BPOWELL
12/13/2007 INTERSU 00000367 11954774
02 FC:1111 -510.00 OP

Refund Ref:
07/23/2009 0030072530

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Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXX1027

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-3-09 Paper No.: _____

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/954,846 Patent No.: 7,500,277

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

**FOR IFW FILES:** Please Check Figs.

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 9C62-D**
**Palm Location 7580**

Ennis Young
**Certificates of Correction Branch**
**703-756-1542**

**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:** _____

GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE 3751 Art Unit

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

General Motors Corporation Legal Staff
Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : William L. Aldrich III | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7603224 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,829 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

COPY MAILED

NOV 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Pikkujamsa, et al. :
Application No. 11/954,845 : DECISION
Filed: 12 December 2007 :
Attorney Docket No. 941-013172-US :
(PAR941-013172-US (PAR)

This is a decision on the petition filed on 25 August, 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 10 January, 2008, with reply due absent extension of time on or before 10 March, 2008.

The application went abandoned by operation of law after midnight 10 March, 2008.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 25 August, 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.

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, *inter alia*, 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).

Petitioner submitted dozens of pages of mail logs. These are not required.

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 |
|---|---|---|---|
| 11/954,845 | 12/12/2007 | Kalle PIKKUJAMSA | 941-013172-US (PAR) |

**CONFIRMATION NO. 4621**

2512
PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

**FORMALITIES LETTER**

Date Mailed: 01/10/2008

# 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:

- Additional claim fees of **$760** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
- 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 **$1920** 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.
- Total additional claim fee(s) for this application is **$760**
  - **$210** for **1** independent claims over 3.
  - **$550** for **11** total claims over 20.

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.

/tnguyen/

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Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

COPY MAILED

DEC 15 2008

OFFICE OF PETITIONS

In re Application of :
Pikkujamsa, et al. :
Application No. 11/954,845 : DECISION
Filed: 12 December 2007 :
Attorney Docket No. 941-013172-US :
(PAR941-013172-US (PAR)

This is a decision on the petition filed on 4 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 to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c )(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

## BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 10 January, 2008,[1] with reply due absent extension of time on or before 10 March, 2008.

The application went abandoned by operation of law after midnight 10 March, 2008.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

[1] A copy of the Notice of Missing Parts was enclosed with the Decision of 28 November, 2008, to allow Petitioner to move the application promptly back into prosecution, however, it appears that Petitioner elected not to reply thereto on submission of the 4 December, 2008, petition.

On 25 August, 2008, Petitioner filed a petition with, *inter alia*, Petitioner's averment of non-receipt, however, while Petitioner provided some of the documentation required and as set forth at MPEP §711.03(c )(I), he failed to complete the showing discussed therein and which sets forth the showing requirements (to include: averment of non-receipt of the Office action addressed to the correspondence address of record, and support for that averment with, *inter alia*, 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)—thus, the petition was dismissed on 28 November, 2008.

Petitioner re-advanced his petition on 4 December, 2008, and provided, *inter alia*, copies of the docket record/sheet for the instant application and the due-date docket/calendar for the due date of the reply, and made statements required, including that of non-receipt, search, non-discovery, narrative of the docketing system and reliability thereof—and so appears to seek to comply with the requirements under the rule.

Thus, Petitioner appears to have satisfied the requirements set forth at MPEP §711.03(c )(I).

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.[2]

## 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]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[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

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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory showing of the requirements under the Rule.

## CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, however, there does not appear to be a Notice of Abandonment to be vacated herein.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course, to include the re-mailing of the Office action in question.

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[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

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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] 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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03/13/2008

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MAILED

MAR 14 2008

Technology Center 2100

In re Application of:
Felix Geller, et al.
Serial No.: 11/954,895
Filed: December 12, 2007
Docket: 0201-0055
Title: METHOD FOR GENERATING AN EXPLANATION OF A CSP SOLUTION

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 12, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions I.1 – I.4, II.1 – II.4, II.5.1, II.6.1, II.6.4, and II.6.6 above are met. However, the petition fails to comply with conditions II.5.2-5.3, II.6.2, 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-II.5.3 above, the pre-examination search must be directed to the (instant) claimed invention and encompass all of the features of the claims as well as encompass the disclosed features that may be claimed. Text searches of section (A) of the Pre-examination Search Document should cover individual features of the claims themselves as well as a combination of features. The text search for US and foreign documents as well as for non-patent literature should include appropriate terms, Boolean operators, truncations, and proximities if applicable. Text searches in Dialog and Dialog Pro are presented in section (A). The logic used to search these databases, fails to include truncation or synonyms for the terms "explanation", "debugging" or "graphing". In addition, as noted in the Background of the Invention, constraint programming is a form of declarative programming. However, the search logic does not include this term. Ferrand et al. discloses identification of a subset of rules for elimination of a value from a domain as a declarative explanation. Clarification of whether this phrase relates only to elimination of a value is requested. If the phrase may be used to include assignment of values to a variable, then it would appear reasonable to include it as part of the search logic.

Finally, a query that requires inclusion of "explanation", "debugging" and "graphing" is narrower than the claims which do not require graphing. A separate but broader search for explanation for assigned values should be included. Clarification and/or correction are required.

Examples of various search strategies can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item II.6.2 above, the accelerated examination support document must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference. In paragraph 5, of Section 9(B), the Ferrand et al. reference is discussed. In the discussion of this reference, Petitioner broadly directs attention to entire sections but does not specifically identify where within these sections the various claimed elements may be found. For example, sub-paragraph D directs attention to pages 3-12 of the reference for disclosure of the feature relating to "augmenting the constraints...and constraints defined..." of claim 1. However, this sub-paragraph fails to specifically identify the location within the ten pages in which the claimed feature may be found. In addition, sub-paragraph D fails to clearly state what elements of the claimed invention in sub-paragraph D are actually disclosed in Ferrand et al. It is therefore unclear what portion of the "augmenting the constraints...and constraints defined..." feature is disclosed by Ferrand et al. and where such disclosure may be found. The remaining sub-paragraphs in paragraph 5 suffer from similar problems.

[1] MPEP 8th ed. rev 5 August 2006

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item II.6.3 above the accelerated examination support document must include 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). The language presented as a recitation of a feature of claim 1 is incorrect. There is no wherein clause in claim 1. Section 9(C) also fails to provide a detailed discussion of how dependent claim 2 is patentable over cited references. Correction is required.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document must 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. Section 9(D) fails to show support for the limitations recited in dependent claim 2. Clarification and identification of support is required for each claim in 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 Gail Hayes, Quality Assurance Specialist, at (571) 272-3591. If attempts to reach the undersigned are unsuccessful, Vincent Trans, Quality Assurance Specialist, can be reached at (571)272-3613.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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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. |
|---|---|---|---|---|
| 11/954,895 | 12/12/2007 | Felix Geller | IL920070073US1(21486) | 4708 |

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| EXAMINER | |
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| ART UNIT | PAPER NUMBER |
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| 2195 | |

| MAIL DATE | DELIVERY MODE |
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| 07/08/2008 | 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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07/06/2008

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In re Application of:
Felix Geller, et al.
Serial No.: 11/954,895
Filed: July 16, 2007
Docket: 0201-0055

Title: METHOD FOR GENERATING AN EXPLANATION OF A CSP SOLUTION

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 14, 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**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

Petitioner alleges that support for dependent claim 2 may be found in the same disclosures identified as providing support for claim 1. However, claim 2 recites the additional element of a "tangible storage medium". However, page 8 of the specification discloses that the computer program product may include "compact storage medium such as a compact disc" This passage is assumed to provide support for the "tangible storage medium" recited in claim 2.

The conditions I1-I4, II1-II4, II5.1-II5.3, II6.1-II6.6 above are met. Therefore, the petition meets the required conditions to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

DECISION

For the above-stated reasons, the petition 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 Gail Hayes, Quality Assurance Specialist, at (571) 272-3591.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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SPOKANE, WA 99201

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Matthew W. Miller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648873 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/954,902 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **8** 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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**JERAMIE J. KEYS**
**P.O. BOX 71355**
**MARIETTA GA 30007-1355**

MAILED

JUL 28 2009

OFFICE OF PETITIONS

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| In re Application of | : | |
| Troy Coleman | : | DECISION ON PETITION |
| Application No. 11/954,908 | : | TO WITHDRAW |
| Filed: December 12, 2007 | : | FROM RECORD |
| Attorney Docket No. 060418 | : | |

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 **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 17, 2009 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: AT&T Legal Department – SZ
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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

**Carr LLP (1ST)**
**670 Founders Square**
**900 Jackson Street**
**Dallas, TX 75202**

MAILED

AUG 27 2009

OFFICE OF PETITIONS

In re Application of
Dennis Colleran et al.
Application No. 11/954,921
Filed: December 12, 2007
Attorney Docket No. 11-001-US1

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 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Gregory W. Carr on behalf of all attorneys/agents associated with customer number 57004. All attorneys/agents associated with customer number 57004 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 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 signing inventor at the first copied address below. A courtesy copy of this decision will also be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application then 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: Dennis Colleran
234 Oldwood Road
North Attleboro, MA 02760

cc: Eckert Seamans Cherin & Mellott
600 Grant Street
44th Floor
Pittsburgh, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/954,921 | 12/12/2007 | Dennis Colleran | 11-001-US1 (IST 3579001) |

**CONFIRMATION NO. 4748**

**POWER OF ATTORNEY NOTICE**

57004
CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

Date Mailed: 08/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2009.

- 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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**GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C**
**PO BOX 7021**
**TROY MI 48007-7021**

**MAILED**

MAR 16 2009

**OFFICE OF PETITIONS**

In re Application of :
Pu ZHANG et al. :
Application No. 11/954,955 : DECISION ON PETITION
Filed: December 12, 2007 :
Attorney Docket No. TJT-16703/16 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 11, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 12, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees and oath or declaration and replacement drawings; (2) the petition fee of $1540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 11, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application is being referred to the Office of Patent Application Processing.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**LANIER FORD SHAVER & PAYNE P.C.**
**P O BOX 2087**
**HUNTSVILLE AL 35804-2087**

**COPY MAILED**

MAR 3 0 2009

**OFFICE OF PETITIONS**

In re Application of :
**O'NEIL,** Adrian :
Application No. 11/955,010 : DECISION ON PETITION
Filed: December 12, 2007 : TO WITHDRAW
Attorney Docket No. **02-0468.27** : 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 10, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Angela Holt on behalf of all attorneys of record who are associated with customer No. 21491. 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.

There is an outstanding Office action mailed December 31, 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: **CARINA TECHNOLOGY, INC.**
**689 DISCOVERY DRIVE**
**HUNTSVILLE, ALABAMA 35806**

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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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HUMAN GENOME SCIENCES, INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE, MD. 20850

MAILED

MAY 15 2009

OFFICE OF PETITIONS

Applicant: Ni et al.
Appl. No.: 11/955,013
Filing Date: December 12, 2007
Title: CYTOSTATIN II
Attorney Docket No.: PF221D3
Pub. No.: 2008/0096821 A1
Pub. Date: April 24, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on May 20, 2008 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains the material error of the sequence listing is missing from the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

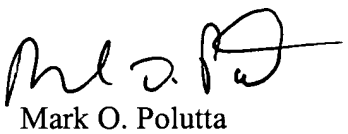
The patent application publication was published without the sequence listing. Note that this is not a material mistake because the application publication claims priority as a divisional of 10/822,787, published as U.S. Patent 7,314,722, which includes the sequence listing. Since the parent application is published and contains the information printed correctly, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as

[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).

a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.



Mark O. Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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. |
|---|---|---|---|---|
| 11/955,020 | 12/12/2007 | KANG-SU PARK | ABN2016-25 | 4924 |

7590 03/19/2009

IPLA P.A.
3580 WILSHIRE BLVD.
17TH FLOOR
LOS ANGELES, CA 90010

| EXAMINER | |
|---|---|
| KOONTZ, TAMMY J | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3974 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/19/2009 | 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

Adjustment date: 03/19/2009 BPOWELL
12/13/2007 INTEFSW 00002092 11955020
02 FC:2111 -255.00 OP

Adjustment date: 03/19/2009 BPOWELL
12/13/2007 INTEFSW 00002092 11955020
02 FC:2111 -255.00 OP

Refund Ref: 0030067924
03/19/2009

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Credit Card Refund Total: $255.00

AB Exp..: XXXXXXXXXX1008

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

MAILED

JUN 10 2009

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook :
Application No. 11/955,028 : DECISION ON PETITION
Filed: December 12, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MJT040US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

***The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) 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(s). In order for this application to be entitled to the benefit of the prior-filed application(s), 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(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 nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2853 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/955,028 | 12/12/2007 | 2853 | 1330 | MJT040US | 15 | 1 |

**CONFIRMATION NO. 4938**

**CORRECTED FILING RECEIPT**

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 06/05/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Kia Silverbrook, Balmain, AUSTRALIA;

**Assignment For Published Patent Application**

Silverbrook Research Pty Ltd

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/534,804 05/13/2005 PAT 7,322,686
which is a 371 of PCT/AU03/01513 11/17/2003
which is a CON of 10/302,668 11/23/2002 PAT 7,152,958

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/09/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/955,028**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

INK JET PRINTHEAD WITH SUSPENDED HEATER ELEMENT

**Preliminary Class**

347

## 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.

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

MAR 31 2008

OFFICE OF PETITIONS

In re Application Of: :
Jonathan Arginteanu :
Application No. 11/955,071 : DECISION ON PETITION PURSUANT TO
Filed: December 12, 2007 : 37 C.F.R. § 1.47(b)
Attorney Docket No. 14418-005001 :
Title: COMMODITY-BASED INDEX AND INVESTMENT AND FINANCIAL RISK MANAGEMENT PRODUCTS :

This is in response to the petition pursuant to 37 C.F.R. § 1.47(b),[1] filed on March 13, 2008.

This petition is **GRANTED**.

---

1 A grantable petition under 37 C.F.R. § 1.47(b) requires:
(1) The petition fee;
(2) a surcharge, if the petition is not filed at the time of filing of 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 inventors, and a statement that these efforts were not successful;
(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 with 37 C.F.R. § 1.63.

On December 12, 2007, this application was filed, identifying Jonathan Arginteanu as the sole inventor. The application was deposited without an executed oath or declaration. On January 14, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same and replacement drawings.

With this petition, Petitioner has included, *inter alia*, the petition fee, a declaration that has been executed by a registered practitioner along with the surcharge that is associated with the late submission of the same, the last known address of the non-signing inventor, proof that a complete copy of the application was sent to the non-signing inventor for review, proof that the non-signing inventor refused to sign, proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application, proof of irreparable damage, and replacement drawings.

Consequently, Petitioner has met requirements (1) - (7) of Rule 1.47(b).

The above-identified 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 status.

As provided in Rule § 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address that 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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**Carr LLP (1ST)**
**670 Founders Square**
**900 Jackson Street**
**Dallas, TX 75202**

COPY MAILED

AUG 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Dennis Colleran et al. :
Application No. 11/955,077 : DECISION ON PETITION
Filed: December 12, 2007 : TO WITHDRAW
Attorney Docket No. 11-001-US2 (IST 3579002) : 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 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Gregory W. Carr on behalf of all attorneys/agents associated with customer number 57004. All attorneys/agents associated with customer number 57004 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 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 signing inventor at the first copied address below. A courtesy copy of this decision will also be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application then 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: Dennis Colleran
234 Oldwood Road
North Attleboro, MA 02760

cc: Eckert Seamans Cherin & Mellott
600 Grant Street
44th Floor
Pittsburgh, PA 15219

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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 |
|---|---|---|---|
| 11/955,077 | 12/12/2007 | Dennis Colleran | 11-001-US2 (IST 3579002) |

**CONFIRMATION NO. 5024**

**POWER OF ATTORNEY NOTICE**

57004
CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

Date Mailed: 08/11/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2009.

- 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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**FENNEMORE CRAIG**
**3003 NORTH CENTRAL AVENUE, SUITE 2600**
**PHOENIX, AZ 85012**

**MAILED**

**JUN 14 2010**

**OFFICE OF PETITIONS**

In re Application of :
**Laura L. EGGINK**, *et al.* :
Application No. 11/955,143 : DECISION GRANTING PETITION
Filed: December 12, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **24667.005** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on April 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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LEASON ELLIS LLP
81 MAIN STREET
SUITE 503
WHITE PLAINS NY 10601

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Lavallee, et al. :
Application No. 11/955,160 : DECISION ON PETITION
Filed: December 12, 2007 :
Attorney Docket No. 0353/0377-US1 :

This is in response to the petition under 37 CFR 1.47(a), filed August 11, 2008, supplemented by a 37 CFR 1.63 declaration filed on October 6, 2008.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

Applicant filed a petition under 37 CFR 1.47(a) on August 11, 2008, asserting that inventor Lavallee was not willing to sign the oath or declaration after having been presented with the application papers. Prior to a decision on the petition being rendered, applicant filed a 37 CFR 1.63 declaration, containing the signature of Lavallee.

However, neither the declaration filed with the 37 CFR 1.47(a) petition on August 11, 2008, or the declaration filed on October 6, 2008, are acceptable. The declarations do not contain the citizenship of inventor Vertallier. Pursuant to 37 CFR 1.63(a)(3), the oath or declaration must specify the citizenship of each inventor.

Accordingly, on renewed petition, applicant must submit a proper 37 CFR 1.63 oath or declaration. As the deficiency exists only with respect to inventor Vertallier, the oath or declaration containing his signature need only be signed by Vertaillier. See 37 CFR 1.67(a)(2).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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81 MAIN STREET
SUITE 503
WHITE PLAINS NY 10601

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MAY 15 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lavallee, et al. | : | |
| Application No. 11/955,160 | : | DECISION ON PETITION |
| Filed: December 12, 2007 | : | |
| Attorney Docket No. 0353/0377-US1 | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 29, 2009.

The petition under 37 CFR 1.47(a) is **DISMISSED** as moot.

In view of the **joinder** of the inventor on October 6, 2008, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application is being forwarded to Group Art Unit 3775 for 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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BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : John F. Gonder | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7663328 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,164 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
John B. Pickering, et al.
Serial No.: 11/955,174
Filed: December 12, 2007

Title: **METHOD AND SYSTEM FOR REDUCING THE COST OF SAMPLING A MOVING IMAGE**

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 12, 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. through 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. through 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: 348/ 154, 155, 431.1, 208.13 and 208.14.

Please also note that any request for reconsideration must include an updated Information Disclosure Statement citing any newly found relevant prior art and an updated Accelerated Examination Support Document (AESD) meeting all of requirements 6.1 – 6.6 for any documents uncovered by the new search(es) as required 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 Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,174 | 12/12/2007 | John B. Pickering | GB920070111US1 (21549) | 5190 |

48233 7590 04/22/2008

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

| EXAMINER | |
|---|---|
| PHILIPPE, GIMS S | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/22/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
John B. Pickering, et al.
Serial No.: 11/955,174
Filed: December 12, 2007

Title: **METHOD AND SYSTEM FOR REDUCING THE COST OF SAMPLING A MOVING IMAGE**

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 March 13, 2008 requesting reconsideration that the above-identified application be made 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 February 13, 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 Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

/Krista Zele/
Krista Zele, Quality Assurance Specialist
Technology Center 2600
Communications

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**FOLEY & LARDNER LLP**
**975 PAGE MILL ROAD**
**PALO ALTO CA 94304**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Laborde et al. | : | DECISION ON PETITION |
| Application No. 11/955,177 | : | TO WITHDRAW |
| Filed: December 12, 2007 | : | FROM RECORD |
| Attorney Docket No. 056274-4000 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 14, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on August 14, 2009 the power of attorney to Foley and Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Swiss Tanner, P.C.
P.O. Box 1749
Four Main Street, Suite 100
Los Altos CA 94022

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,210 | 12/12/2007 | Tae-Hyun Kim | 59894/P849 | 5265 |

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.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 11/05/2009 NFARMER
12/13/2007 INTEFSW 00003475 031728 11955210
02 FC:1111 510.00 CR

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

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JAN 12 2009

**OFFICE OF PETITIONS**

In re Application of :
Mehas et al. :
Application No. 11/955,212 :
Filed: December 12, 2007 :
Attorney Docket No. INTS-28423 :

Decision Noting Joinder of Inventor and
Decision Dismissing Any Request for
Status Under 37 CFR 1.47 as Moot

This decision is in response to the petition under 37 CFR 1.47 filed August 14, 2008, and supplemented August 19, 2008.

The petition is **dismissed as moot**.

A petition under 37 CFR 1.47 was filed August 14, 2008.

Petitioner filed a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63 on August 19, 2008.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is unnecessary.

Technology Center Art Unit 2828 will be informed of the instant decision to ensure it is aware the petition filed August 14, 2008, has been addressed and the application is in condition 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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Alexandria, VA 22313-1450
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CST

April 16, 2009

| | | |
|---|---|---|
| In re application of | : | DECISION ON REQUEST TO |
| Makoto Ashiura et al | : | PARTICIPATE IN PATENT |
| Serial No. 11/955,216 | : | PROSECUTION HIGHWAY |
| Filed: December 12, 2007 | : | PROGRAM AND |
| For: THERMOPLASTIC ELASTOMER COMPOSITION | : | 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 February 19, 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

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

DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Feng Pan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586362 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,221 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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FENNEMORE CRAIG
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012

MAILED

JUN 14 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Laura L. Eggink, et al. | : | |
| Application No. 11/955,226 | : | DECISION GRANTING PETITION |
| Filed: December 12, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 24667.004 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on April 20, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED

JUN 29 2009

OFFICE OF PETITIONS

Applicant: Vandensande et al.
Appl. No.: 11/955,234
Filing Date: December 13, 2006
Title: POWER CELL MONITORING
Attorney Docket No.: 14993.67
Pub. No.: US 2008/0143543 A1
Pub. Date: June 19, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 19, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material error in containing the phrase "(it 1)" rather than the originally filed "(i≠ 1).

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." (Emphasis added) A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error is, in this case, is not a material Office error. The errors are due to the quality of the text, which is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(1). As set forth at MPEP 1121, "applications with poor quality text, which may be acceptable for scanning and examination purposes, may lead to errors in the patent application publication. Correction of these errors and inclusion of any desired amendments into the text of the originally-filed specification and drawings will only occur if applicant files a request for republication under 37 CFR 1.221(a). They will **not** be corrected by the Office in a corrected publication under 37 CFR 1.221(b)." (Emphasis added) Further note that the error has not been

[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).

alleged by applicant to affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. Review of the record indicates that the indicated error does not meet the standard for material error.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is very small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Feng Pan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586363 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,237 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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NIXON & VANDERHYE, PC
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FLOOR
ARLINGTON VA 22203

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NOV 07 2008

OFFICE OF PETITIONS

In re Application of

Wenger, et al.

Application No. 11/955,263

Filed: December 12, 2007

Attorney Docket No. JRL-4114-21

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 8, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 19, 2008, after it was believed that no response was filed to the Notice to File Corrected Application Papers mailed January 18, 2008. A Notice of Abandonment was mailed on September 26, 2008, indicating that a response was not received.

The instant petition maintains that a response was timely filed on March 6, 2008, however; the response cited an incorrect application serial number. A review of the Image File Wrapper for application serial number 11/995,263 revealed the response filed March 6, 2008, that was meant to be filed in 11/955,263. Because a response was filed with the Office prior to the expiration of the period for reply and the response contained other appropriate identifiers, the petition is granted and the holding of abandonment withdrawn.

The application file is being forwarded to the Office of Patent Application Processing for further processing including review of the response filed March 6, 2008.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No.

VMWARE, INC.
DARRYL SMITH
3401 Hillview Ave.
PALO ALTO CA 94304

MAILED

JUL 26 2010

OFFICE OF PETITIONS

In re Application of :
Zheng et al. :
Application No. 11/955,265 :
Filed: December 12, 2007 :
Attorney Docket No.: A128 :
Title: ON-ACCESS ANTI-VIRUS :
MECHANISM FOR VIRTUAL :
MACHINE ARCHITECTURE :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 18, 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 submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 17, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on March 18, 2010. A Notice of Abandonment was mailed on April 5, 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;

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(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, Applicant has submitted the issue, publication, and petition fees, along with the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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3 See Rule 1.137(d).
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Hiroshi SHINRIKI | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655564 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,275 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/12/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **59** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**Greenberg Traurig LLP (LA)**
**2450 Colorado Avenue, Suite 400E**
**Intellectual Property Department**
**Santa Monica, CA 90404**

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AUG 26 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Roger Davis | : | |
| Application No. 11/955,282 | : | DECISION ON PETITION |
| Filed: December 12, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 077874-010502 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles Berman, Esq. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Roger Davis at the address indicated below.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Roger Davis**
**13700 Marina Point**
**Unit 1616**
**Marina Del Ray, CA 90292**

cc: **Roger Davis**
**Xero Mobile Inc.**
**9701 Wilshire Blvd., 9th Floor**
**Beverly Hills, CA 90212**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/955,282 | 12/12/2007 | Roger Davis | 077874-010502 |

**CONFIRMATION NO. 5393**

**POWER OF ATTORNEY NOTICE**

33717
GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA, CA 90404

Date Mailed: 08/25/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/30/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of :
**ENICKS**, Darwin G. :
Application No. 11/955,328 : DECISION ON PETITION
Filed: December 12, 2007 : TO WITHDRAW
Attorney Docket No. **4288P** : 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 02, 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 Joseph Sawyer, Jr. on behalf of all attorneys of record who are associated with customer No. 29141. All attorneys/agents associated with the Customer Number 29141 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARWIN G. ENICKS**
**6845 SNOBIRD DR.**
**COLORADO SPRINGS, CO 80918**

cc: **SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL**
**P.O. BOX 2938**
**MINNEAPOLIS, MN 55402**

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RICHARD B. MAIN, ESQ.
PATENTS PENDING
9832 LOIS STILTNER CT.
ELK GROVE CA 95624

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JAN 28 2008

OFFICE OF PETITIONS

In re Application of :
LI, et al. :
Application No. 11/955,365 : DECISION ON PETITION
Filed: December 12, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **MLF 670-33** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy the birth certificate of inventor Edgar M. Williams, 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

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Christopher D. S. Donham, et al. :
Application No. 11/955,377 : DECISION ON PETITION
Filed: December 12, 2007 : TO WITHDRAW
Attorney Docket No. 019680-003330US : 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 18, 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 Cathy E. Cretsinger on behalf of all attorneys of record who are associated with customer No. 45890. All attorneys/agents associated with the Customer Number 45890 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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: NVIDIA CORPORATION
2701 SAN TOMAS EXPRESSWAY
SANTA CLARA, CA 95050

cc: PATTERSON & SHERIDAN, LLP
250 CAMBRIDGE AVENUE
SUITE 300
PALO ALTO, CA 94306

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 |
|---|---|---|---|
| 11/955,377 | 12/12/2007 | Christopher D. S. Donham | 019680-003330US |

**CONFIRMATION NO. 5570**

**POWER OF ATTORNEY NOTICE**

45890
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

*OC000000038045840*

Date Mailed: 09/30/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/18/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**SMITH HOPEN, PA**
**180 Pine Avenue North**
**Oldsmar, FL 34677**

MAILED

SEP 29 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Vladimir Alexander | : | |
| Application No. 11/955,378 | : | DECISION ON PETITION |
| Filed: December 12, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 530533-2003.1 | : | 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 August 20, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Smith Hopen, PA has been revoked by the applicant of the patent application on August 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **FROMMER LAWRENCE & HAUG**
**745 Fifth Avenue-10th Floor**
**New York, NY 10151**

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

**AT&T LEGAL DEPARTMENT - WK**
**ATTN: PATENT DOCKETING, RM 2A-207**
**ONE AT&T WAY**
**BEDMINSTER, NJ 07921**

COPY MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of :
**Samuel ZELLNER** :
Application No. 11/955,389 : DECISION ON PETITION TO
Filed: December 13, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **070281; AT1-178** :

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 2, 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 to withdraw less than all attorneys appointed by customer number 65667 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,455 | 12/13/2007 | Neil Adams | P1914US00 | 5708 |

63617 7590 07/28/2009

PERRY + CURRIER INC.
(FOR RIM)
1300 YONGE STREET
SUITE 500
TORONTO, ON M4T-1X3
CANADA

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 2612 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/28/2009 | 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

PERRY + CURRIER INC.
(FOR RIM)
1300 YONGE STREET
SUITE 500
TORONTO ON M4T-1X3 CA CANADA

Applicant: Adams
Appl. No.: 11/955,455
Filing Date: December 13, 2007
Title: METHOD AND APPARATUS FOR GENERATING A NOTIFICATION AT A COMPUTING DEVICE
Attorney Docket No.: P1914US00
Pub. No.: US 2009/0153353 A1
Pub. Date: June 18, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on July 23, 2009, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. In addition, the Applicant did not provide a copy of the application. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following

website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Office of Data Management
United States Patent & Trademark Office

07/28/2009 KKING1 00000001 503750 11955455
01 FC:1803 130.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Christian Grouffal | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7584043 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,480 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **69** 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

**McKee, Voorhees & Sease, P.L.C.**
**801 Grand Avenue**
**Suite 3200**
**Des Moines, IA 50309-2721**

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Eldon L. Stroburg :
Application No. 11/955,494 : DECISION ON PETITION
Filed: December 13, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. P08158US00 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 13, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the attorney of record on behalf of the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Upon completion of the pre-examination processing by the Office of Patent Application Processing, this application will be referred to Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM-ROCHESTER C/O TOLER LAW GROUP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN, TX 78759

MAILED

MAR 18 2009

OFFICE OF PETITIONS

In re Application of :
Rafal Przemyslaw Konik, et al. :
Application No. 11/955,506 : DECISION ON REQUEST FOR
Filed: December 13, 2007 : REVOCATION OF POWER
Attorney Docket No. : OF ATTORNEY
:

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed March 6, 2009.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on March 6, 2009 does not include a signed copy of the statement under 37 CFR 3.73(b).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/955,506 | 12/13/2007 | Rafal Przemyslaw Konik | ROC920070510US1 (IBM 8) |

**CONFIRMATION NO. 5783**

74342
WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN, NC 28563-0867

**POWER OF ATTORNEY NOTICE**

*OC000000034918756*

Date Mailed: 03/10/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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WARD AND SMITH, P.A.
1001 COLLEGE COURT
P.O. BOX 867
NEW BERN, NC 28563-0867

MAILED

MAR 18 2009

OFFICE OF PETITIONS

In re Application of :
Rafal Przemvslaw Konik, et al. :
Application No. 11/955,506 : DECISION ON PETITION
Filed: December 13, 2007 : TO WITHDRAW
Attorney Docket No. ROC920070510US1 (IBM 8) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by E. Eric Mills on behalf of all attorneys of record who are associated with customer No. 74342. All attorneys/agents associated with the Customer Number 74342 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 Rafal Przemyslaw Konik at the address indicated below.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on March 6, 2009 does not include a signed copy of the statement under 37 CFR 3.73(b).

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: RAFAL PRZEMYSLAW KONIK
305 SEVENTH STREET SW
ORONOCO, MN 55960

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. |
|---|---|---|---|---|
| 11/955,528 | 12/13/2007 | Tae-Hyung HWANG | HAA-0107 | 5817 |

7590 06/04/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER | |
|---|---|
| JUNG, MICHAEL | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 4148 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 06/04/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

/Nomi Farmer/

Patent Publication Branch
Office of Data Management

Adjustment Date: 06/04/2009 NFARMER
12/13/2007 INTEFSW 00006629 061130 11955528
02 FC:1111 510.00 CR
04 FC:1202 150.00 CR

~~Refund Ref: 06/04/2009 [illegible]~~
~~Credit Card Refund Total: $540.00~~
~~Am Exp..: XXXXXXXXXXX1002~~

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. |
|---|---|---|---|---|
| 11/955,560 | 12/13/2007 | Larry D. Knerr | 1484-024 | 5870 |

32905 7590 06/13/2008
JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

| EXAMINER | |
|---|---|
| KRUSE, DAVID H | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1638 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/13/2008 | 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
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

JUN 13 2008

In re Application of:
Larry D. Knerr
Serial No.: 11/955,560
Filed: December 13, 2007
Attorney Docket No.: 1484-024

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed June 5, 2008, 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 5, 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.

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/Program Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 02 2008

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
Larry D. Knerr
Serial No.: 11/955,560
Filed: December 13, 2007
Attorney Docket No.: **1484-024**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed September 30, 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 5, 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

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

DOWNS RACHLIN MARTIN PLLC
199 MAIN ST
PO BO 190
BURLINGTON VT 05402-0190

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of :
Anderson et al. :
Application No. 11/955,580 : DECISION ON PETITION
Filed: December 13, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BUR920060063US2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 25, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the application data sheet filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 CFR §1.78(a)(3) require 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2825 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Christopher Bottorff
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/955,580 | 12/13/2007 | 2825 | 1030 | BUR920060063US2 | 5 | 2 |

**CONFIRMATION NO. 5913**

**CORRECTED FILING RECEIPT**

44024
DOWNS RACHLIN MARTIN PLLC
199 MAIN ST
PO BO 190
BURLINGTON, VT 05402-0190

Date Mailed: 05/13/2010

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)**

Brent A. Anderson, Jericho, VT;
Jeanne P. Bickford, Essex Junction, VT;
Markus Buehler, Sindelfingen, GERMANY;
Jason D. Hibbeler, Williston, VT;
Juergen Koehl, Weil im Schoenbuch, GERMANY;
Edward J. Nowak, Essex Junction, VT;

**Assignment For Published Patent Application**

INTERNATIONAL BUSINESS MACHINES CORPORATION, Armonk, NY

**Power of Attorney:** The patent practitioners associated with Customer Number 44024

**Domestic Priority data as claimed by applicant**

This application is a CIP of 11/552,225 10/24/2006

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 01/10/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/955,580**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Design Structure for a Redundant Micro-Loop Structure for use in an Integrated Circuit Physical Design Process and Method of Forming the Same

**Preliminary Class**

716

## 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. |
|---|---|---|---|---|
| 11/955,589 | 12/13/2007 | Hiroto WATANABE | 90606.258/fu | 5935 |

7590 11/19/2009

YAMAHA HATSUDOKI KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

| EXAMINER | |
|---|---|
| LEWIS, TISHA D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3655 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/19/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
11/19/2009 0033076348

Credit Card Refund Total: $510.00

Am Exp...: XXXXXXXXXXX5005

Adjustment date: 11/19/2009 MFARMER
12/13/2007 INTEFSW 00007339 11955589
02 FC:1111 -510.00 DP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Byung Sik Yoon | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7654144 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,607 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

PERRY E. VAN OVER &
ASSOCIATES, PLLC
P.O. BOX 399
FAIRFAX VA 22038

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OFFICE OF PETITIONS

In re Application of :
Harris et al. : DECISION ON PETITION
Application No. 11/955,617 :
Filed: December 13, 2007 :
Atty Docket No. 809.12701 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 28, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice to File Missing Parts of Application mailed January 11, 2008. 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. On August 13, 2008, applicants submitted the required replies (the statutory basic filing fee, the late surcharge, and the executed declaration) and by credit card payment a four-month extension of time. However, the four-month extension of time was only sufficient to extend the period for reply to July 11, 2008[1]. No further extension of time obtained, the above-identified application became abandoned on July 14, 2008. A courtesy Notice of Abandonment was mailed on September 18, 2008.

Applicant has satisfied the requirements of 37 CFR 1.137(b). The required reply was previously submitted. The petition

[1] Applicants have a Deposit Account. However, no authorization to charge any deficiency in the extension fee under 37 CFR 1.17 to the Deposit Account was present in the application.

includes the petition fee and the required statement of unintentional delay. No terminal disclaimer is required to revive this application.

The application is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the responses filed August 13, 2008.

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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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Siu Lung Chan | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7609556 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,624 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Gao, Williams, Rowe, Agahi :
Application No. 11/955,669 : DECISION REFUSING STATUS
Filed: December 13, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 3060 US :
For: SINGLE LIGHT SOURCE UNIFORM PARALLEL LIGHT CURTAIN

This is a decision on the petition under 37 CFR 1.47(a) filed March 6, 2008.

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on December 13, 2007, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on January 15, 2008, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on March 6, 2008.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) and (2) as set forth above.

As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [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 paper should be sent to the last known address of the non-signing inventor . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

While the instant petition states that inventor WIlliams has refused to join the prosecution of the application, the circumstances of that refusal are not iterated and it is not clear whether inventor Williams was provided a complete copy of the application papers or whether he refused to accept the same. In order for inventor Williams' refusal to have merit relative to the instant petition, the circumstances surrounding his refusal must be iterated and it must be clear that he was provided with a copy of the application papers or an effort was made to provide him with the same and he refused.

As to item (2), the declaration is not acceptable because the signature block for inventor Agahi contains a strike-through. The renewed petition must be accompanied by a declaration that contains a proper signature block for inventor Agahi.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Gao, Williams, Rowe, Agahi :
Application No. 11/955,669 : DECISION REFUSING STATUS
Filed: December 13, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 3060 US :
For: SINGLE LIGHT SOURCE UNIFORM PARALLEL LIGHT CURTAIN

This is a decision on the renewed petition under 37 CFR 1.47(a) filed July 1, 2008.

The renewed petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on December 13, 2007, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on January 15, 2008, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(a) was first filed on March 6, 2008, and dismissed by a decision mailed May 9, 2008.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the instant petition again does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [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 . . .**
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

While the instant petition states that inventor Williams has refused to join the prosecution of the application, the renewed petition does not make clear that a complete copy of the application papers, i.e., specification, claims, abstract, and drawings, were presented to the non-signing inventor. In order for inventor Williams' refusal to have merit relative to the instant petition, it must be clear that he was provided with a complete copy of the application papers or an effort was made to provide him with the same and he refused. This is normally established by statement from counsel or by a copy of a cover letter that was sent to the non-signing inventor indicating that a complete copy of the application papers is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

In re Application of :
Gao, Williams, Rowe, Agahi :
Application No. 11/955,669 : DECISION ACCORDING STATUS
Filed: December 13, 2007 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 3060 US :
For: SINGLE LIGHT SOURCE UNIFORM PARALLEL LIGHT CURTAIN

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 10, 2008.

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on December 13, 2007, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on January 15, 2008, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(a) was filed on March 6, 2008. The petition was dismissed by a decision mailed July 14, 2008.

Petitioner has shown that inventor Williams 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 address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**FOLEY HOAG, LLP**
**PATENT GROUP (W/HUV HMV)**
**155 SEAPORT BLVD.**
**BOSTON MA 02210-2600**

COPY MAILED

AUG 25 2008

OFFICE OF PETITIONS

In re Application of :

**SINCLAIR**, David A. et al. :
Application No. 11/955,680 : DECISION ON PETITION
Filed: December 13, 2007 : TO WITHDRAW
Attorney Docket No. **HMV-10601** : 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 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Gregory J. Sieczkiewicz on behalf of all attorneys of record who are associated with customer No. 58475. 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: **DAVID A. SINCLAIR**
**8 PRESTON ROAD**
**WEST ROXBURY, MA 02132**

cc: **JOHN R. VAN AMSTERDAM**
**WOLF, GREENFIELD & SACKS, P.C.**
**600 ATLANTIC AVENUE**
**BOSTON, MA 02210**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jong-Kui PARK | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7602344 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/13/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,686 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Jin-Ki Kim | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639540 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,754 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **14** 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. |
|---|---|---|---|---|
| 11/955,846 | 12/13/2007 | Anthony Craig DOLWIN | 319660US2CRL | 6400 |

7590 01/12/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER |
|---|
| LEE, THOMAS C |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2115 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/12/2010 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
01/11/2010 [illegible]

Credit Card Refund Total: $[illegible]

[illegible]

Adjustment date: 01/11/2010 NFARMER
12/14/2007 INTEFSW 00000802 11955846
02 FC:1111 -510.00 OP
04 FC:1202 -1000.00 OP
05 FC:1201 -210.00 OP
06 FC:1203 -370.00 OP



FORM PET651G (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,848 | 12/13/2007 | Minoru Yamamoto | 319426US | 6407 |

7590 09/14/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| EMPIE, NATHAN H | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1792 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 09/14/2009 | 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

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-510.00 OP

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,854 | 12/13/2007 | Kenneth E. Volpert | 160245-104U1 | 6416 |

570 7590 02/28/2008

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 3692 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/28/2008 | 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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FEB 27 2008

TECHNOLOGY CENTER 3600

PANITCH SCHWARZE BELISARIO & NADEL LLP
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2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

In re application of : **DECISION ON PETITION**
Kenneth E. Volpert : **TO MAKE SPECIAL FOR**
Application No. 11/955,854 : **NEW APPLICATION**
Filed: December 13, 2007 : **UNDER 37 CFR 1.102**
For: BASKET CREATION PROCESS FOR ACTIVELY MANAGED ETF THAT DOES NOT REVEAL ALL OF THE UNDERLYING FUND SECURITIES

This is a decision on the petition filed on December 13, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the 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 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 condition II.5.2.

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 expectation. While Applicant's searches include many good synonyms for some of the searched concepts, other relevant synonyms were omitted. For example, synonyms for "invest$" might include purchas$3, buy$3, bought, and procur$3. Other synonyms for "fixed income," "bond," and "treasury" might include "fund$1 OR securit$3 OR ETF OR ETFs OR stock$1." Synonyms for "exchange," such as trad$3 and swap$4, should also be considered. Phrases such as "secondary adj3 market" should be searched in combination with synonyms, which include terminology in which a "secondary market" would be referred to in layman's terms. For example, "secondary adj3 market" might be searched in the alternative with secondary ADJ3 market$1, aftermarket, ((used OR resell$3 or resold or re-sold or liquid$3) NEAR4 market$1), and ((purchas$3 OR buy$3 OR bought OR and procur$3) NEAR5 ((another OR other OR direct$2) NEAR4 investor$1)).

Also regarding Condition II.5.2, the search queries should make greater use of truncation operators, including plurals. For example, in addition to searching more synonyms for "exchange" (as discussed above), varying word endings should also be accounted for. Searching "exchang$3" will pick up on exchanges, exchanging, exchanged, etc. Very few of Applicant's search queries account for plurals and other common word endings, thereby increasing the likelihood of omitting potentially relevant search results. The search queries conducted in all of the database services and database files should take plurals and other common word endings into account.

Further regarding Condition II.5.2., many of Applicant's searches are overly narrow. For example, L1 of the USPTO EAST search queries "portfolio and benchmark and index." These terms are often synonyms for one another; therefore, searching all three in the same document would omit many relevant references that only incorporate one or two of these searched words. Instead of requiring that all three of these potential synonyms be present in the same document, they should be searched in the alternative along with other synonyms (e.g., (portfolio$1 OR benchmark$3 OR index OR indices OR ("S&P") OR (Dow ADJ Jones) OR DowJones OR Nasdaq OR (stock ADJ exchange$1) OR (Standard ADJ Poor$1))). Synonyms for "duration" could include time$1 OR

month$1 OR week$1 OR period$1 OR year$1 OR duration$1 (to detect "durations"). The search term "basket" should also be queried with more synonyms, such as bundle$1 and basket$1 (to detect baskets). These are non-limiting examples of synonyms for the searched terms. Applicant should consider additional synonyms for all of the searched concepts throughout the various database services and database files.

As per Condition II.5.2, the claimed invention in its entirety should be searched. The search queries fail to focus on certain claimed elements. On pages 3-4 of the Accelerated Examination Search Document, Applicant states that "the references identified above fail to teach or suggest at least the 'actively managed' limitation required in clause (b) of claims 1 and 9, and the 'midpoint' limitation required in clause (c) of claims 1 and 9." Focusing on limitations (b) and (c) in claims 1 and 9, it is seen that the search queries do not sufficiently address the particular limitations that make the claimed invention patentable. For example, the concept of *actively managing* the selection of a portfolio of fixed income securities is not reflected in any of the search queries. The duration of ranges of securities holdings (i.e., longer, close, and shorter) is only addressed in one search query, which was conducted in S7 of the Dialog search (page 4 of the Preexamination Search Statement). S7 was based on S1, which is also very narrow since it omits many synonyms and variable word endings (for the reasons presented above); therefore, many relevant search results might not have been identified. Various approaches for searching this concept should be attempted, especially since it is part of Applicant's asserted reasons for patentability. Additionally, the term "midpoint" is never searched. This term should be explicitly searched, along with synonyms and alternate word endings (e.g., (mid-point$1 OR midpoint$1 OR median$1 OR mean OR average$1 OR halfway OR half-way OR ((fifty or 50) ADJ ("%" OR percent OR percentile$1 OR percentage$1)))).

A sample search might include the following queries:

L1: (mid-point$1 OR midpoint$1 OR median$1 OR mean OR average$1 OR halfway OR half-way OR ((fifty or "50") ADJ ("%" OR percent OR percentile$1 OR percentage$1))) SAME (basket$1 OR bundle$1)

L2: L1 SAME (time$1 OR month$1 OR week$1 OR period$1 OR year$1 OR duration$1)

L3: L2 AND (portfolio$1 OR benchmark$3 OR index OR indices OR ("S&P") OR (Dow ADJ Jones) OR DowJones OR Nasdaq OR (stock ADJ exchange$1) OR (Standard ADJ Poor$1))

L4: (trad$3 OR exchang$3 OR swap$4) NEAR5 ((fixed ADJ income) OR bond$1 OR treasury OR fund$1 OR securit$3 OR ETF OR ETFs OR stock$1)

L5: L3 AND L4

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.

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/2/22/08

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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. |
|---|---|---|---|---|
| 11/955,854 | 12/13/2007 | Kenneth E. Volpert | 160245-104U1 | 6416 |

570 7590 04/25/2008

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

| EXAMINER | |
|---|---|
| HAMILTON, LALITA M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3691 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/25/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-

In re application of : **DECISION ON PETITION**
Kenneth E. Volpert : **TO MAKE SPECIAL FOR**
Application No. 11/955,854 : **NEW APPLICATION**
Filed: December 13, 2007 : **UNDER 37 CFR 1.102**
For: BASKET CREATION PROCESS FOR ACTIVELY MANAGED ETF THAT DOES NOT REVEAL ALL OF THE UNDERLYING FUND SECURITIES

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 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.

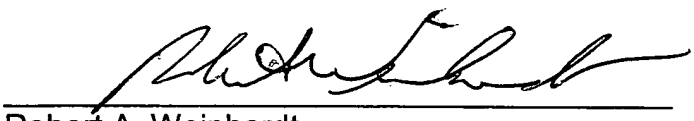
9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated 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/4/24/08

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/13/09

TO SPE OF : ART UNIT 3691 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/955,854 Patent No.: 7,461,027
Attn: Lalita Hamilton

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)**
**South Tower - 9A22**
***Palm Location 7580***

*Ok to enter Appendix A & B

*Ernest C. White, LIE*
**Certificates of Correction Branch**
703-308-9390 ext.122

**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:** SEE ATTACHED.

_____

_____

_____

_____ 3691

**SPE** **Art Unit**

The documents identified as appendices are not of the type listed under Rule 52e. In addition appendices are not published. These appendices do not constitute a portion of the specification as they are not in the proper format (e.g., not in compliance with Rule 52(b)(5): not numbered consecutively and also the font and spacing seem non-compliant) and have not been incorporated by reference. The specification was properly published so this would not constitute an Office mistake as the CoC asserts.

/Alexander Kalinowski/
SPE, Art Unit 3691

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 11/6/2009
Patent No. : 7,461,027 B2
Serial No. : 11/955,854
Inventor(s) : Volpert
Issue Date : December 2, 2008
Title : **BASKET CREATION PROCESS FOR ACTIVELY MANAGED ETF THAT DOES NOT REVEAL ALL OF THE UNDERLYING FUND SECURITIES**
Doc./File No. **160245-104U1**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, after further review by the examiner, the documents identified as appendices are not of the type listed under Rule 52e. In addition appendices are not published. These appendices do not constitute a portion of the specification as they are not in the proper form (e.g., not in compliance with Rule 52(b)(5); not numbered consecutively and also the font and spacing seem non-compliant) and have not been incorporated by reference. The specification was properly published so this would not constitue and office mistake as the CoC asserts.

In view of the foregoing, your request for certificate of correction is hereby denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

**Ernest C. White, *LIE* (703) 756-1590**
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch

PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

ecw

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

HARMAN – BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

JUL 09 2009

OFFICE OF PETITIONS

In re Application of
Markus BUCK, et al
Application No. 11/955,862
Filed: December 13, 2007
Attorney Docket No. 11336/1783

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **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

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. |
|---|---|---|---|---|
| 11/955,869 | 12/13/2007 | Hisatoshi HIROTA | 072517 | 6443 |

7590 12/04/2008

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

| EXAMINER | |
|---|---|
| JIANG, CHEN WEN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3744 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/04/2008 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
12/04/2008 0030064170

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1053

Adjustment date: 12/04/2008 NFARMER
12/14/2007 INTEFSW 00001052 11955869
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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,872 | 12/13/2007 | Justin COON | 319679US2CRL | 6446 |

7590 01/12/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| GHAYOUR, MOHAMMAD H | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/12/2010 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref: 12/21/2010 2322070692

Credit Card Refund Total: $510.00

Adjustment date: 01/11/2010 NFARMER
12/14/2007 INTERPAY 00000028 11955872
02 FC:1111 -510.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE, MA 02139-4242

**COPY MAILED**

FEB 25 2009

**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Corey Anderson, et. al.
Application No. 11/955,874
Filed: December 13, 2007
Attorney Docket No. VPI/06-131 CIP US

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael C. Badia 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.

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 present petition varies slightly from the language required by 37 CFR 1.137(b)(3), the statement 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of seventy-four sheets of drawings containing Figures 1-74; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

MAILED

JUL 13 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

In re Application of: VAN DE BEEK, JAAP et al.
Application No. 11955895
Filed: December 13, 2007
For: METHOD AND SYSTEM FOR ALLOCATING COMMUNICATION RESOURCES

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 July 2, 2010, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application is
(a) a Paris Convention application which either (i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the EPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or
(b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application (i) validly claims priority to an application filed in the EPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (iii) contains no priority claim, or
(c) a so-called bypass application filed under 35 U.S.C. 111 (a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application (i) validly claims priority to an application filed in the EPO, or (ii) validly claims priority to a PCT application that contains no priority claims, or (iii) contains no priority claim.

Where the EPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the EPO application that contains the allowable/patentable claims and the EPO priority application claimed in the U.S. application.

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s)

(3) All the claims in the U.S. application must sufficiently correspond to the allowable/patentable claim(s) in the EPO 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 EPO application(s) containing the allowable/patentable claim(s);

(6) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO office action along with copies of documents except U.S. patents or U.S. patent application publications.

The request to participate in the PPH program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Hassan Kizou at 571-272-3088

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Hassan Kizou/

_____

Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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. |
|---|---|---|---|---|
| 11/955,895 | 12/13/2007 | Jaap Van De Beek | 30952/43502 | 6494 |

4743 7590 07/13/2010

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

| EXAMINER | |
|---|---|
| YAO, KWANG BIN | |
| **ART UNIT** | **PAPER NUMBER** |
| 2473 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/13/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/955,901 | 12/13/2007 | Byoung-Jae BAE | 678-3402 (P15850) | 6504 |

7590 09/28/2009

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

| EXAMINER | |
|---|---|
| | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2112 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/28/2009 | 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.

Patent Publication Branch
Office of Data Management

Refund Ref:
09/28/2009 2033074894

Credit Card Refund Total: $1180.00

Acct Exp...: XXXXXXXXXX1011

Adjustment date: 09/28/2009 HFARMER
12/14/2007 INTEFSW 00001225 11955901
02 FC:1111 -510.00 DP
04 FC:1202 -250.00 DP
05 FC:1201 -420.00 DP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
Woodbury, MN 55125

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Koichi Wago | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7642041 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/05/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/955,905 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2** 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. |
|---|---|---|---|---|
| 11/955,952 | 12/13/2007 | Magnus Stig Torsten SANDELL | 319664US2CRL | 6613 |

7590 01/12/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| GHAYOUR, MOHAMMAD H | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 01/12/2010 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/11/2010 3030078695

Credit Card Refund Total: $1230.00

Adjustment date: 01/11/2010 NFARMER
12/14/2007 INTEFSW 00001677 11955952
02 FC:1111 -510.00 DP
04 FC:1202 -350.00 DP
05 FC:1203 -370.00 DP

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.

BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

**COPY MAILED**

NOV 2 4 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Donald Gage, Donald Guthan | : | DECISION REFUSING STATUS |
| William Theobald, and | : | UNDER 37 C.F.R. § 1.47(a) |
| Randall Zumwalt | : | |
| Application No. 11/955,962 | : | |
| Filed: December 13, 2007 | : | |
| Atty Docket No. 016295.3117 | : | |
| (DC-12111) | : | |

This is in response to the PETITION UNDER 37 C.F.R. 1.47(a) TO FILE ON BEHALF OF A NONSIGNING INVENTOR filed July 18, 2008.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. In other words, the filing of executed oaths or declarations by previously non-signing inventors is a proper response to this decision. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 13, 2007, with a declaration executed by joint inventors Donald Gage and Donald Guthan on behalf of themselves and on behalf of non-signing joint inventors William Theobald and Randall Zumwalt. It is noted that this declaration was missing the residence and/or mailing address for inventor Theobald. Moreover, no petition

under 37 CFR 1.47(a) accompanied the declaration. Accordingly, on January 18, 2008, the Office mailed a "Notice to File Missing Parts of Application," requiring the signatures of the other inventors on an oath or declaration and the surcharge for its late filing. This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the surcharge under § 1.16(l) and the instant petition under § 1.47 (and fee). This response was made timely by an accompanying petition and fee for extension of time for response within the fourth month. Accompanying the petition was a declaration executed by previously non-signing joint inventor Zumwalt on behalf of himself and on behalf of non-signing inventor Theobald. (As previously noted a declaration executed by joint inventors Gage and Guthan on behalf of themselves and on behalf of the non-signing inventors was received on filing). Applicants assert that status under § 1.47(a) is proper because inventor Theobald refuses to sign the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Theobald. However, the petition is not grantable because requirements (1) and (2) above have not been met.

With respect to requirement (1), rule 47 applicants have not submitted adequate proof that non-signing inventor Theobald has refused to join in the application. The petition includes a statement by attorney Roger Fulghum that on July 15, 2008, inventor Theobald told him that he would not be signing the declaration because of his continued unhappiness with Dell Inc. However, before a refusal can be alleged, applicants must demonstrate that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. 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. See MPEP 409.03(d).

In this instance, applicants have not presented evidence that inventor Theobald was ever presented with all of the application papers (specification, claims and drawings) for review and signature. Attorney Fulghum's statement only indicates that the inventor was presented with a declaration by e-mail.

It is acknowledged that rule 47 applicants state that the non-signing inventor refuses to sign a declaration due to unhappiness with Dell Inc. This explanation does not overcome the requirement to first show that a bona fide attempt was made to present the inventors with all of the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. In this instance, it is noted that there is no showing that the inventor is not willing to receive the application papers.

It is noted that on renewed petition, the presentation of the application papers to inventor Theobald may be shown to have been accomplished by e-mail. However, unless the inventor acknowledges receipt of the contents of the email communication, and such proof is submitted on petition, it cannot be inferred that inventor Theobald's failure to respond to the email (or his any subsequent oral refusal) constitutes a refusal. They may have not responded because they did not receive the email or they received it and were unable to open and read it. Thus, the evidence must be clear that inventor Theobald was able to read the declaration and application papers sent by email. Alternatively, applicants may present all of the application papers to the inventor by certified mail return receipt requested, and submit on petition, documentary evidence of receipt of the papers by mail. Then, his failure to respond to received mailings constitutes a refusal.

With respect to requirement (2), rule 47 applicants have not submitted an acceptable declaration. None of the declarations submitted are in compliance with 37 CFR 1.63. The declarations do not include the residence and mailing address of inventor Theobald. This information must be provided for all of the inventors including the non-signing inventors. To cure this deficiency, the residence and/or mailing address of inventor Theobald may be provided on an executed application data sheet (ADS) in compliance with 37 CFR 1.76. This declaration should be entitled "supplemental" and must be executed pursuant to 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

COPY MAILED

MAY 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Donald Gage, Donald Guthan | : | DECISION ACCORDING STATUS |
| William Theobald, and | : | UNDER 37 C.F.R. § 1.47(a) |
| Randall Zumwalt | : | |
| Application No. 11/955,962 | : | |
| Filed: December 13, 2007 | : | |
| Atty Docket No. 016295.3117 | : | |
| (DC-12111) | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a) filed March 24, 2009.

The petition is **GRANTED**.

The above-identified application was filed on December 13, 2007, with a declaration executed by joint inventors Donald Gage and Donald Guthan on behalf of themselves and on behalf of non-signing joint inventors William Theobald and Randall Zumwalt. In response to the "Notice to File Missing Parts of Application," mailed January 18, 2008, the initial petition with a declaration for patent signed by previously nonsigning inventor Zumwalt were filed on July 18, 2008. By decision mailed November 24, 2008, the petition was dismissed for failure to make an adequate showing that non-signing inventor Theobald had refused to join in the application after having been presented with the application papers.

On instant renewed petition, petitioner included an application data sheet (ADS) containing the residence information for inventor Theobald and another statement from attorney Roger Fulghum as to the facts relied on to support a conclusion that inventor Theobald refuses to join in the application.

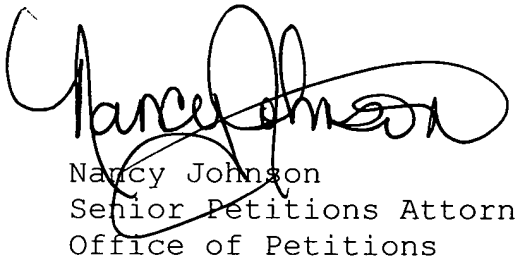
Petitioner thereby submitted adequate proof, including documentary evidence, that the application papers had been delivered to inventor Theobald by FedEx delivery on March 13, 2009, and that by his conduct, in not responding to the request to sign the declaration, he has refused to join in the application. Inventor Theobald's prior refusals are also noted.

The declarations filed December 13, 2007, July 18, 2008 and March 24, 2009 have been reviewed (in light of the application data sheet supplied March 24, 2009) and found in compliance with 37 CFR 1.47(a).

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. William Theobald
9200 Castle Pines Drive
Austin TX 78717

COPY MAILED

MAY 20 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Donald Gage, Donald Guthan | : | |
| William Theobald, and | : | |
| Randall Zumwalt | : | LETTER |
| Application No. 11/955,962 | : | |
| Filed: December 13, 2007 | : | |
| Atty Docket No. 016295.3117 | : | |
| (DC-12111) | : | |

Dear Mr. Theobald:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

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. None

MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA DRIVE
SUITE 700
HOUSTON TX 77057-5662

**COPY MAILED**

**JUN 20 2008**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ian Maclean | : | |
| Application No. 11/955,972 | : | DECISION ON PETITION UNDER |
| Filed: December 13, 2007 | : | 37 C.F.R. § 1.47(B) |
| Attorney Docket No. 074-43304-US | : | |
| Title: WELLBORE POWER AND/OR DATA TRANSMISSION DEVICES AND METHODS | : | |

This is in response to the petition pursuant to 37 C.F.R. § 1.47(b), filed May 12, 2008.

On December 13, 2007, the application was filed, identifying Ian Maclean as the sole inventor. The application was deposited without an oath or declaration. On January 11, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, notifying applicant that a fully executed oath or declaration and the associated surcharge were required. 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 the petition fee, a statement of the last known address of the non-signing inventor, proof that a copy of the application was sent to the non-signing inventor for review and proof that the non-signing inventor refused to sign, and proof of irreparable damage. Petitioner has further included a two-month extension of time, so as to make timely this submission (it is noted that May 11, 2008 fell on a Sunday).

Consequently, Petitioner has met requirements (1) - (4) and (6) of Rule 1.47(b).

Regarding the second requirement of Rule 1.47(b), the surcharge will be charged to Petitioner's Deposit Account in due course, as authorized in the petition.

**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[1]. The Crawford declaration of facts sets forth that the non-signing inventor used to be employed by the purported assignee. Unfortunately, it does not appear that an assignment document has been provided, and no Reel and Frame number where the recordation of this assignment may be found appear to have been provided. Furthermore, there is no record in the Office's s Patent Application Location and Monitoring System of an Assignment involving this application. These facts fail to establish that the Petitioner has any proprietary interest in the application at

1 See 35 U.S.C. § 118, 37 C.F.R. § 1.47(b), and MPEP § 409.03(f).

hand, and it appears that the inventor never assigned any rights in the present invention to the corporation[2].

On renewed petition, Petitioner should provide either a copy of the employment agreement, an 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.**

**Regarding the seventh requirement of Rule 1.47(b)**, it does not appear that an oath or declaration has been provided[3].

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,[4] hand-delivery,[5] or facsimile transmission (FAX)[6]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[7].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[8]. 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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2 See MPEP § 402.07 and 37 C.F.R. § 3.71(c).
3 See MPEP § 409.03(b)(A).
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 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
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 |
|---|---|---|---|
| 11/955,972 | 12/13/2007 | MacLean Iain | 074-43304-US |

**CONFIRMATION NO. 6653**

44871
MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA DRIVE
SUITE 700
HOUSTON, TX 77057-5662

**FORMALITIES LETTER**

*OC000000027651520*

Date Mailed: 01/11/2008

# 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 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 **$130** for a non-small entity
- **$130** Surcharge.

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.

/jmilani/

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Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA DRIVE
SUITE 700
HOUSTON TX 77057-5662

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SEP 15 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ian Maclean | : | |
| Application No. 11/955,972 | : | DECISION ON RENEWED PETITION |
| Filed: December 13, 2007 | : | PURSUANT TO |
| Attorney Docket No. 074-43304-US | : | 37 C.F.R. § 1.47(B) |
| Title: WELLBORE POWER AND/OR DATA TRANSMISSION DEVICES AND METHODS | : | |

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(b), filed August 21, 2008.

On December 13, 2007, the application was filed, identifying Ian Maclean as the sole inventor. The application was deposited without an oath or declaration. On January 11, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, notifying applicant that a fully executed oath or declaration and the associated surcharge were required. 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.

An original petition pursuant to 37 C.F.R. § 1.47(b) was filed on May 12, 2008, along with the petition fee, a statement of the last known address of the non-signing inventor, proof that a copy of the application was sent to the non-signing inventor for review and proof that the non-signing inventor refused to sign, proof of irreparable damage, and a two-month extension of time. The decision was dismissed in a decision mailed on June 20, 2008, which indicated that Petitioner had met requirements (1) - (4) and (6) of Rule 1.47(b).

With this renewed petition, Petitioner has submitted a one-month extension of time, so as to make timely this response.

Petitioner has further included an assignment document that has been executed by the inventor, and as such, Requirement (5) of Rule 1.47(b) has been satisfied.

**Regarding the seventh requirement of Rule 1.47(b)**, with this renewed petition, Petitioner has included a declaration that has been executed by Petitioner, a registered practitioner. This declaration cannot be accepted however, as it is defective. The declaration does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 C.F.R. § 1.56. Instead of "material to patentability," it improperly contains the language "material to the examination of this application," which has no meaning in the context of the rule.

**Any declaration that is submitted in response to this decision must "include the language expressly set forth in 37 CFR 1.63, including that in 37 CFR 1.63(b)(3)."[1]**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.47(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any response to this decision 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 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 1327 *Official Gazette* 112 (February 12, 2008).
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 Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA DRIVE
SUITE 700
HOUSTON TX 77057-5662

COPY MAILED
DEC 10 2008

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|---|---|---|
| In re Application of | : | |
| Ian Maclean | : | |
| Application No. 11/955,972 | : | DECISION ON SECOND RENEWED |
| Filed: December 13, 2007 | : | PETITION PURSUANT TO |
| Attorney Docket No. 074-43304-US | : | 37 C.F.R. § 1.47(B) |
| Title: WELLBORE POWER AND/OR DATA TRANSMISSION DEVICES AND METHODS | : | |

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.47(b), filed November 14, 2008.

This second renewed petition is **GRANTED**.

On December 13, 2007, the application was filed, identifying Ian Maclean as the sole inventor. The application was deposited without an oath or declaration. On January 11, 2008, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, notifying applicant that a fully executed oath or declaration and the associated surcharge were required. 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.

An original petition pursuant to 37 C.F.R. § 1.47(b) was filed on May 12, 2008, along with the petition fee, a statement of the last known address of the non-signing inventor, proof that a copy of the application was sent to the non-signing inventor for review and proof that the non-signing inventor refused to sign, proof of irreparable damage, and a two-month extension of time. The decision was dismissed in a decision mailed on June 20, 2008, which indicated that Petitioner had met requirements (1) - (4) and (6) of Rule 1.47(b).

A renewed petition was filed on filed August 21, 2008, along with a one-month extension of time, an assignment document that has been executed by the inventor, and a declaration. This renewed petition was dismissed via the mailing of a decision on September 15, 2008, which indicated that requirement (5) of Rule 1.47(b) had been satisfied, and that the declaration is defective.

With this second renewed petition, Petitioner has included an acceptable declaration that has been executed by a registered practitioner on behalf of a corporation, who has included a statement indicating that he is authorized to sign on behalf of the corporation, pursuant to MPEP § 409.03(b)(A).

Consequently, each of the requirements of 37 C.F.R. § 1.47(b) has been met.

The above-identified 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.

As provided in Rule § 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address that 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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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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**MAILED**

MAR 24 2010

**OFFICE OF PETITIONS**

**MARSHALL, GERSTEIN & BORUN LLP**
**233 SOUTH WACKER DRIVE**
**6300 SEARS TOWER**
**CHICAGO IL 60606-6357**

| | | |
|---|---|---|
| In re Application of | : | |
| Jean-Eric Besold et al. | : | |
| Application No. 11/955,991 | : | DECISION ON PETITION |
| Filed: December 13, 2007 | : | |
| Attorney Docket No. 28944/43513 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on August 13, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on November 14, 2009. A Notice of Abandonment was mailed on November 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 2 5 2010

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

In re Application of
William P. Apps et al.
Application No. 11/956,010
Filed: December 13, 2007
For: COLLAPSIBLE CONTAINER

DECISION ON PETITION
TO REVIEW RESTRICTION
REQUIREMENT UNDER
37 CFR § 1.144

This is in response to applicants' petition filed under 37 CFR 1.144 received December 28, 2009 requesting a review of the requirement for restriction made final in the October 27, 2009 Office action.

The petition is **GRANTED**.

This application was filed with twenty-nine claims. Claims 1-29 were rejected in a first Office action mailed October 7, 2008. Applicants timely filed an amendment on January 7, 2009 amending claims 14, 18 and 26 and introducing new claims 30-34. Claims 1-34 were rejected in a second non-final Office action mailed February 24, 2009. Applicants timely filed an amendment on May 27, 2009. The examiner issued a Requirement for Restriction on July 30, 2009. The requirement was made final in a non-final Office action mailed October 27, 2009.

The examiner required a restriction between invention I drawn to a collapsible container and invention II drawn to a method of utilizing a collapsible crustacean trap to trap a crustacean. The examiner justified the requirement to restrict by indicating that "the process as claimed can be used to practice another and materially different apparatus."

**803 [R-3] Restriction — When Proper**

Under the statute>, the claims of< an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § **> 802.01, § 806.06, and § 808.01<) or distinct (MPEP § 806.05 - § *> 806.05(j)<).

If the search and examination of **>all the claims in an< application can be made without serious burden, the examiner must examine *>them< on the merits, even though **>they include< claims to independent or distinct inventions.

**808.02 [R-5] Establishing Burden**

Where the * inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, **must explain why there would be a serious burden on the examiner if restriction is not required** (emphasis added). Thus the examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof : This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together : Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search : Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

As Applicant has properly pointed out, MPEP § 808.02 requires that the examiner, in "order to establish reasons on insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required." Once an Office action on the merits has been issued the bar of showing a series burden is substantially raised. In the Requirement for Restriction the examiner set forth the reason for burden as being one or more of the following:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph. ,

As their separate status in the art in view of their different classification and their separate status in the art due to their recognized divergent subject matter did not place a burden on the examiner, as evident by the two non-final Office actions prior to the Restriction Requirement, the examiner is improper to insist restriction based on reasons (a) or (b). As to reason (c), the examiner has twice performed a search and thus can not argue that the inventions require a different field of search, as the same field of search was applied to both inventions. Furthermore, the amendment to claim 14 is not directed to the method, per se, but to the collapsible trap. The additional recitation of "opposing side walls and opposing end walls, pivotably connected to a base, are generally parallel to the base and positioned on the base" is provided for in claims 1-13, e.g., "the container body includes a pair of opposing side walls and a pair of opposing end walls transverse to the pair of opposing side walls, and the pair of opposing side walls and the pair of opposing end walls are each pivotally attached to the base" of claim 8. Thus, the prior art applicable to invention I would likely be applicable to invention II. As such, there is no series burden based upon reason (d).

After a careful review of the application file and thorough consideration of the positions taken by both applicants and the examiner, it is clear that the requirement was made in error and is, therefore, improper. MPEP § 808.02 clearly states that the examiner must explain why there would be a serious burden on the examiner if restriction is not required. The examiner has failed to convincingly provide a showing of serious burden. Additionally, MPEP § 803 clearly indicates that if the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions. Accordingly, the requirement for restriction is vacated.

The application will be promptly returned to the examiner for consideration of claims 14-18 and 32-34 on the merits.

Any questions concerning this decision should be referred to Quality Assurance Specialist Teri Luu at (571) 272-7045.

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
(571) 272-5350

KM/tl: 01/13/10
TL

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CST

July 1, 2009

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|---|---|---|
| In re application of<br>Takashi Matsuda et al<br>Serial No. 11/956,011<br>Filed: December 13, 2007<br>For: AMINE SALT COMPOUND OF CARBOXYLIC ACID HAVING THERMAL DISSOCIATION PORTION AND COMPOUNDING AGENT FOR RUBBER VULCANIZATION AND RUBBER COMPOSITION CONTAINING THE SAME | : | DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program, together with the preliminary amendment, both filed May 19, 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/956,069 | 12/13/2007 | Mark A. Stan | 7005 (9456-102799) | 6828 |

7590 03/05/2008

Emcore Corporation
1600 Eubanks Blvd., SE
Albuquerque, NM 87123

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 1792 | |

| MAIL DATE | DELIVERY MODE |
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| 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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Emcore Corporation
1600 Eubanks Blvd., SE
Albuquerque, NM 87123

MAR - 5 2008

In re Application of:
Mark A. Stan et al.
Serial No.: 11/956,069
Filed: December 13, 2007
Docket: 7005 (9456-102799)
Title: EXPONENTIALLY DOPED LAYERS IN INVERTED METAMORPHIC MULTIJUNCTION SOLAR CELLS

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 December 13, 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, II.6.1, II.6.2, II.6.4 and II.6.6 above. However, the petition does not meet conditions II.5, II.6.3, and II.6.5 above.

Regarding the conditions set forth in II.5.2 above, the petition fails to direct to the claimed invention and encompass all the features of the claims. The claims are directed to a process of forming multifunction solar cell classified in class 348. However, only subclass 705 of class 438 was indicated as having been searched. This subclass is indented under subclass 689 and is provided for processes wherein the manner in which a semiconductor substrate is etched by a chemical etchant is altered by contacting the substrate prior to etching (a) with a material which alloys or diffuses into a substrate region or (b) by modifying the crystalline structure of a substrate region (e.g., amorphosizing, introducing dislocations, etc.). Independent claims 1, 14 and 18 do not recite a step for forming by etching. Class 438 covers the method claims and subclasses there under such as subclasses 74, 87, 91, 94 and 98 should have been searched. As such the search of the U.S. classification is inadequate to encompass the claimed subject matter. It is indicated that the searches in the areas outlined in the Preexamination Search "were performed using search terms of "multi-junction solar cells", "multi-layer, graded interlayer", "interlayer, sub-cell", "graded band gap", and "exponential doping."" Without providing the search logic used in combining these terms or in conjunction with other terms, the search provided is inadequate to encompass all the features of the claims. For these stated reasons, the Preexamination Search fails to comply with the requirements of condition II.6.4 above.

Regarding the conditions set forth in II.6.3 above, the petition fails to include a detailed explanation of how each of the claims are patentable over the references cited with the particularity required by 37 C.F.R. §1.111(b) and (c). While the explanation includes the discussion of each of the cited references, the assertion that the claims are believe to be patentable over each of the references because each of the references does not disclose some feature4s recited in the claims, it does not indicate with sufficient specificity why the claim recitation that is lacking in the prior art would render the claims unobvious and patentable. For example, in discussing the publication "LATTICE MISMATCHED APPROACHES FOR HIGH PERFORMANCE, III-V PHOTOVOLTAIC ENERGY CONVERTERS" (Conference Proceedings of the 31st IEEE Photovoltaic Specialists Conference, Jan. 3-7, 2005, IEEE Press, 2005, by Wanlass et al., it is asserted that "Wanlass et al. does not disclose "forming a grading interlayer over said second solar subcell, said graded interlayer having a third band gap greater than said second band gap", "forming a third solar subcell having a base and an emitter over said grading interlayer having a fourth band gap smaller than said second band gap such that said third subcell is lattice mis-matched with respect to said second subcell", or the context "wherein at least one of the bases has an exponentially doped profile." Since Wanlass et al. does not disclose these claim elements, claims 1-13 are believed to be patentable over Wanlass et al." This assertion is inadequate to meet condition II.6.3 because it only addresses why the claims are believed to be patentable over the reference under 35 USC §102. While the statement made in

the petition satisfies the showing of patentability under 35 USC §102, it does not satisfy the showing of patentability under 35 USC §103. A proper 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) must include an explanation(s) of why the claims are believed to be patentable (unobvious) over the prior art under 35 USC §103.

Regarding the showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification, required in condition II.6.5, the petition makes numerous references to the discussion in "paragraph [011] of the specification" as providing support for the claimed subject matter. For example, in discussing support for claim 1, it is stated "The method of forming a multijunction solar cell element is discussed in paragraph [011] of the specification" and "Claim 1 is further directed to the step of "providing first substrate for the epitaxial growth of semiconductor material." The provision of the substrate for epitaxial growth is discussed in paragraph [011] of the specification." However, there is no paragraph [011] in the specification. There is paragraph [0011] on page 4 of the specification that states under the heading of "a. Description of the Related Art," as follows: "[0011 ] Prior to the present invention, the materials and fabrication steps disclosed in the prior art have not been adequate to produce a commercially viable and energy efficient solar cell using an inverted metamorphic cell structure." It is clear that the content of this paragraph does not and cannot provide support for the claimed subject matter within the meaning of 35 USC §112, first paragraph. The petition fails to meet condition II.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 C.F.R. §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, 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. |
|---|---|---|---|---|
| 11/956,069 | 12/13/2007 | Mark A. Stan | 7005 (9456-102799) | 6828 |

7590 05/08/2008

Emcore Corporation
1600 Eubanks Blvd., SE
Albuquerque, NM 87123

| EXAMINER | |
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| ART UNIT | PAPER NUMBER |
| 1792 | |

| MAIL DATE | DELIVERY MODE |
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| 05/08/2008 | PAPER |

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The time period for reply, if any, is set in the attached communication.

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Emcore Corporation
1600 Eubanks Blvd., SE
Albuquerque, NM 87123

In re Application of:
Mark A. Stan et al.
Serial No.: 11/956,069
Filed: December 13, 2007
Docket: 7005 (9456-102799)
Title: EXPONENTIALLY DOPED LAYERS IN INVERTED METAMORPHIC MULTIJUNCTION SOLAR CELLS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. §1.102

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) and M.P.E.P. §708.02(a).

The petition to make the application special is **DENIED**.

A petition to make the application special was originally filed on December 13, 2007. The petition was dismissed in a decision of March 5, 2008, for failure to fully comply with the requirements for a pre-examination search, a detailed explanation of patentability of the claims, and a showing of support for the claim limitations under 35 USC 112, first paragraph.

The renewed petition was filed on March 25, 2008, via the Certificate of Express Mail procedure under 37 C.F.R. §1.10 with a deposit date of March 25, 2008. The renewed petition was not filed electronically.

To be eligible for accelerated examination in accordance with 37 C.F.R. § 1.102(d) and pursuant to M.P.E.P. § 708.02(a), the following conditions are required:

1. the application is not a reissue utility or design application filed under 37 C.F.R. § 1.111(a);
2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. the application, at the time of filing, must be complete under 37 C.F.R. § 1.51 and in condition for examination;

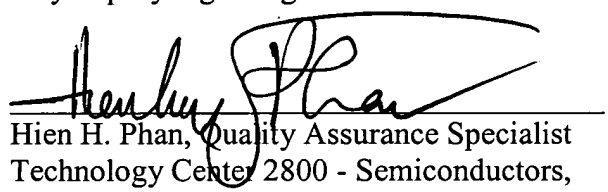
4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

In order to be eligible for the accelerated examination program, the petition to make special must be submitted electronically via EFS-Web. If not submitted electronically, the petition must be accompanied by a statement asserting that EFS-Web was not available during the normal business hour. Any renewed petition to make special must be timely and electronically submitted via EFS-Web because a renewed petition is a petition that is filed to overcome any deficiencies that resulted in the dismissal of an earlier filed petition.

Because the renewed petition was filed by Express Mail via the U.S. Postal Service instead of electronically via EFS-Web and was not accompanied by a statement that EFS-Web was not available during the normal business hour, the instant application is no longer eligible for accelerated examination in accordance with 37 CFR 1.102(d) and pursuant to M.P.E.P. §708.08(a). The petition must be denied.

The application will 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) 272-1606.



Hien H. Phan, Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Ioannis Cosmadopoulos et al | : | DECISION GRANTING STATUS |
| Application No. 11/956,094 | : | UNDER 37 CFR 1.47(a) |
| Filed: December 13, 2007 | : | |
| Attorney Docket No. ORACL-02172US1 | : | |

This is in response to the petition filed March 3, 2008, which is being treated as a petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor Anno R. Langen 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 matter is being referred to the Office of Patent Application Processing.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucei
Petitions Examiner
Office of Petitions

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Anno R. Langen
973 Indian Rock Avenue
Berkeley, CA 94707

In re Application of
Ioannis Cosmadopoulos; Vinod Mehra; Anno R. Langen; Reto Kramer
Application No. 11/956,094
Filed: December 13, 2007
For: SYSTEM AND METHOD FOR PROTECTING AGAINST FAILURE THROUGH GEO-REDUNDANCY IN A SIP SERVER

Dear Inventor Langen:

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 Irvin Dingle at (571) 272-3210. 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, DC area).

David Bucci
Petition Examiner
Office of Petitions

cc: Fliesler Meyer LLP
650 California Street
14th Floor
San Francisco, CA 94108

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**LATHROP & GAGE LLP**
**2345 GRAND BOULEVARD**
**SUITE 2400**
**KANSAS CITY MO 64108**

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| In re Application of | : | |
| Bachmeyer et al. | : | |
| Application No. 11/956,118 | : | DECISION GRANTING STATUS |
| Filed: December 13, 2007 | : | STATUS UNDER 37 CFR 1.47(a) |
| Attorney Docket No. 474814 | : | |

This is in response to the petition under 37 CFR 1.47(a), filed November 10, 2008.

The petition is **GRANTED**.

Petitioner has shown that the nonsigning inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventors at the addresses 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 Petitions Examiner Liana Walsh at (571) 272-3206.

This matter is being referred to Technology Center AU 3641 for further examination on the merits.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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**PAUL JOSEPH BACHMEYER**
**VIA SAN VITALE; 31 INTERNO 6**
**VERONA, ITALY 37129**

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FEB 26 2010

| | | |
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| In re Application of | : | |
| Bachmeyer et al. | : | |
| Application No. 11/956,118 | : | ON PETITION |
| Filed: December 13, 2007 | : | |
| Attorney Docket No. 474814 | : | |

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 in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Examiner Liana Walsh at (571) 272-3206. 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).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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**BRYAN J. PITTMAN**
**71 CYRA COURT**
**FUQUAY VARINA, NC 27526**

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FEB 26 2010

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| In re Application of | : | |
| Bachmeyer et al. | : | |
| Application No. 11/956,118 | : | ON PETITION |
| Filed: December 13, 2007 | : | |
| Attorney Docket No. 474814 | : | |

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**DOUGLAS A. SWANSON**
**105 PARK CANYON LANE**
**CARY, NC 27519**

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| Bachmeyer et al. | : | |
| Application No. 11/956,118 | : | ON PETITION |
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/dab/
David Bucci
Petitions Examiner
Office of Petitions

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**SCOTT K. THOMPSON**
**512 CHELSEA AVENUE**
**ERIE, PA 16505**

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/dab/
David Bucci
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**PAUL JOSEPH BACHMEYER**
**VIA SAN VITALE; 31 INTERNO 6**
**VERONA, ITALY 37129**

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Office of Petitions

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/s/
David Bucci
Petitions Examiner
Office of Petitions

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**HOLLAND & HART, LLP**
**P.O BOX 8749**
**DENVER CO 80201**

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JAN 12 2009

In re Application of :
**SMITH,** Timothy J. :
Application No. 11/956,170 : DECISION ON PETITION
Filed: December 13, 2007 : TO WITHDRAW
Attorney Docket No. **49485.830002.US2** : FROM RECORD
:

his 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 **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 Brain Kinnear on behalf of all attorneys of record who are associated with customer No. 26582. 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: **TIMOTHY J. SMITH**
**9462 INDIAN PAINTBRUSH LANE**
**HIGHLANDS RANCH, CO 80129**

cc: **PROTECTICOM CORPORATION**
**1745 SHEA CENTER DRIVE**
**FOURTH FLOOR**
**HIGHLANDS RANCH, CO 80129**

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MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES CA 90049

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of :
NORTON, DONOVAN K. :
Application No. 11/956,135 : ON PETITION
Deposited: December 13, 2007 :
Attorney Docket No. Durston-Welder :

This is a decision on the "PETITION TO RESTORE DRAWINGS FILED ELECTRONICALLY ON THE FILING DATE BUT NOT RECEIVED BY THE PATENT OFFICE" filed June 2, 2008.

For the reasons stated herein, the petition is **DISMISSED**.

Petitioners are given **TWO (2) MONTHS** from the mailing date of this decision to correct the below-noted deficiencies, including supplying an amendment in compliance with 37 CFR 1.57 and 37 CFR 1.121 or otherwise, properly respond. This period is not extendable. See 37 CFR 1.181(f). The reconsideration request should include a cover letter entitled "RENEWED PETITION UNDER 37 CFR 1.57(a)." In the alternative, petitioners may file a petition requesting that the Office accord the application a filing date of June 2, 2008, the date of receipt of the drawings in the USPTO. See 37 CFR 1.6(a)

Petitioners deposited the application papers on December 13, 2007. On April 2, 2008, the Office mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date will be the date of receipt of all items required, unless otherwise indicated.

On June 2, 2008, petitioners submitted the present petition, the $400.00 petition fee, and 5 sheets of drawings. Petitioners make the following argument:

> Applicant hereby petitions to restore drawings filed electronically on the filing date of the referenced Application but not received by the patent office, and therefore maintain the priority claim under 37 C.F.R. 1.55[1] to Provisional Application No. 60/874,539. Applicant also hereby requests a refund of the petition fee, as Applicant believes the Drawings were not received by the Patent Office due to computer error and Applicant is therefore entitled to maintaining the original filing date and therefore is entitled to the refund of the petition fee pursuant to 37 C.F.R. 1.17(f).
>
> ... The Application was prepared in full, including the drawings, and was submitted as such on December 13, 2007. However, for an unknown reason these drawings were not received by the Patent Office, even though they were in fact uploaded on the filing date. The U.S. Patent Office, has issued a Filing Receipt and mailed for our review on January 10, 2008 accepting this Application in full, indicating that these drawings were actually available at the Patent Office, and only much later, namely April 2, 2008 retracted the completeness of this Application, noting the missing drawings. Therefore, Applicant believes, that due to computer error these drawings were either never received by the Patent Office and the Filing Receipt was issued in error or somehow have since been removed from the U.S. Patent Office website, resulting in the issuance of the Incomplete Application Notice of April 2, 2008.
>
> ... Also, the existence of these drawings at the time of filing is emphasized in the Provisional Application, No. 60/874,539, to which this Non-provisional Application claims priority as these drawings are **simply**

[1] The Office notes that the first line of the specification on filing contains a claim under 37 CFR 1.78(a) (not § 1.55) for the benefit of prior-filed provisional application No. 60/874,539, as well as an explicit incorporation by reference statement.

**modifications of the drawings originally submitted with the Provisional Application.** The Applicant certifies under penalty of perjury that the current drawings, as resubmitted herewith were in existence at least as early as the filing date of December 13, 2007, and have been in existence in a **similar version** at least as early as the filing date of the Provisional Application of December 13, 2006.

It is unclear to the Applicant why the Patent Office did not receive these drawings at the time of filing of the Non-provisional Application, however, Applicant did in fact submit these drawings with this Application and thus respectfully requests that the filing date of December 13, 2007 is maintained and re-accorded to this application, and the priority claim is maintained.

*Petition filed 06/02/08, pp. 1-2 (emphasis added).*

37 CFR § 1.57 provides that:

(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

> (i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;
>
> (ii) Supply an English language translation of any prior-filed application that is in a language other than English; and
>
> (iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.
>
> ...
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

The present application was deposited after September 21, 2004. Furthermore, the first line of the specification on filing contains a claim under 37 CFR 1.78(a) for the benefit of prior-filed provisional application No. 60/874,539, as well as an explicit incorporation by reference statement.[2] Petitioners provided 5 sheets of drawings that "are simply modifications of the drawings originally submitted with the Provisional Application," but did not submit an amendment to include the omitted drawings as part of the application. *Petition filed 06/02/08, p. 2.* However, the drawings submitted on petition are not completely contained in the prior filed provisional application. Rather, petitioners state that the 5 sheets of drawings are a "similar version." *Id.* Moreover, petitioners do not assert that the drawings were inadvertently omitted on filing the present nonprovisional application.[3] Instead,

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[2] The Office reminds petitioners that in order to rely on an explicit incorporation by reference statement to amend the application to include the omitted drawings, the omitted material must be contained in the prior application. MPEP 201.06(IV).

[3] Pursuant to MPEP 201.17(II)(B):

> There is no requirement for applicant to submit a declaration stating that the omission was inadvertent or to submit proof that a particular omission was inadvertent at the time of filing of the

petitioners argue that they submitted the drawings with the original application papers, but they are missing due to USPTO error.[4]

Petitioners have not met the conditions and requirements to add omitted material to an application pursuant to 37 CFR 1.57(a). Specifically, all or a portion of the drawings must have been inadvertently omitted from the application and completely contained in the prior-filed application. Therefore, the provisions of 37 CFR 1.57 are inapplicable in this instance to obtain a filing date of December 13, 2007.

In view thereof, the petition must be **dismissed**.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Registered users of EFS-Web may alternatively submit their response to this decision via EFS-Web.

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application. If applicant submits an amendment to add the omitted material pursuant to 37 CFR 1.57(a), it would constitute a certification under 37 CFR 10.18(b) that the omission was inadvertent. The Office, however, may inquire as to inadvertence where the record raises such issue.

[4] After a thorough review of the record and a consultation with the Electronic Business Center, the Office did not locate any drawings filed on December 13, 2007, or determine any error occurred on the part of the USPTO.

Telephone inquiries related to this decision may be directed to Christina Tartera Donnell, Senior Petitions Attorney at (571) 272-3211.

Anthony Knight
Supervisor
Office of Petitions

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MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES CA 90049

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DEC 18 2008

OFFICE OF PETITIONS

In re Application of :
NORTON, DONOVAN K. :
Application No. 11/956,135 : ON PETITION
Filed: December 13, 2007 :
Attorney Docket No. Durston-Welder :

This is a decision on the "RENEWED PETITION," filed December 10, 2008, requesting that the above-referenced application be accorded a filing date of December 13, 2007.

Petitioner deposited the application papers on December 13, 2007. On April 2, 2008, the Office mailed a Notice of Incomplete Nonprovisional Application stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date will be the date of receipt of all items required, unless otherwise indicated.

Petitioner asserts that this application expressly incorporated by reference prior provisional Application No. 60/874,539 filed December 13, 2006. Petitioner states that the drawings submitted with the present renewed petition are a copy of the drawings filed in Application No. 60/874,539.

In an application containing an explicit incorporation by reference statement in the specification (or in a transmittal letter if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted

material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered. See MPEP 201.06(c).

A review of the application as filed reveals that the specification contains an explicit incorporation by reference of prior-filed Application No. 60/874,539. As applicants have filed a renewed petition, an amendment, and the omitted drawings, the application will be accorded the filing date of December 13, 2007, as requested. Thus, the petition is **GRANTED**.

This matter is being referred to the Office of Patent Application Processing to accord the application a filing date of December 13, 2007, using the application papers received in the Office on that date, and the drawings submitted on December 10, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mi Sun Park | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7661822 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/16/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/956,155 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/13/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **235** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/956,222 | 12/13/2007 | Heung-seok KIM | AB-2432US | 7101 |

7590 04/10/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

| EXAMINER | |
|---|---|
| NELMS, DAVID C | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2871 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/10/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/10/2009 NFARMER
12/14/2007 INTEFSW 00003662 502257 11956222
02 FC:1111 510.00 CR
04 FC:1202 200.00 CR

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

In re Application of :
Lin, et al. : DECISION REFUSING STATUS
Application No. 11/956,223 : UNDER 37 CFR 1.47(a)
Filed: December 13, 2007 :
Atty. Dkt. No.: 1001.1990101 :

This decision is in response to the petition under 37 CFR 1.47(a) filed July 14, 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 January 14, 2008. The Notice required a surcharge and an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition fails to satisfy requirement (1) set forth above. Petitioners have failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration, or, that the non-signing

inventor cannot be reached or located for presentation of the application papers.

Petitioners allege that the non-signing inventor cannot be reached. The petition further alleges that on two occasions, a letter which included a copy of an assignment document and declaration were mailed to the non-signing inventor, and that no response was received from the non-signing inventor.

To the extent that petitioners allege the non-signing inventor has refused to execute the oath or declaration, petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

When it is concluded by the 37 CFR 1.47 applicant that a non-signing 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.

To the extent that petitioners allege the non-signing inventor cannot be reached or located, petitioners are reminded that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath

or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:
(571) 273-8300

By hand:
U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**WILSON DANIEL SWAYZE, JR.**
**3804 CLEARWATER CT.**
**PLANO TX 75025**

MAILED

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Paul Arseneau | : | |
| Application No. 11/956,232 | : | DECISION ON PETITION |
| Filed: December 13, 2007 | : | |
| Attorney Docket No. WDS-3620 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 6, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 7, 2009. A Notice of Abandonment was mailed November 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 2855 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

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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:
STEWART, OSAMUYIMEN T., et al
Serial No.: 11/956,251
Filed: December 13, 2007

Title: **USING PARTIAL INFORMATION TO IMPROVE DIALOG IN AUTOMATIC SPEECH RECOGNITION SYSTEMS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on December 13, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 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: 704/235.

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.

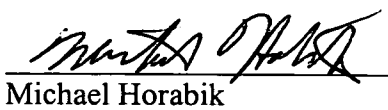
## DECISION

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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of:
STEWART, OSAMUYIMEN T. et al,
Serial No.: 11/956,251
Filed: December 13, 2007

Title: **USING PARTIAL INFORMATION TO IMPROVE DIALOG IN AUTOMATIC SPEECH RECOGNITION SYSTEMS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on February 05, 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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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MARC E HANKIN ESQ
11414 THURSTON CIRCLE
LOS ANGELES CA 90049

In re Application of :
Hawkins, et al. :
Application No. 11/956,335 : DECISION ON PETITION
Filed: December 14, 2007 :
Attorney Docket No. Hawkins-TamperProof :

This is a decision on the "PETITION TO CORRECT FILING DATE UNDER 37 CFR 1.6 AND 1.182", filed August 31, 2009.

The petition is **DISMISSED**.

The application was filed via EFS on December 14, 2007. The Office accorded a filing date of December 14, 2007 based on the fact that the transmission was not completed until 38 seconds after midnight on December 14, 2007.

Petitioner requests that the application be accorded a filing date of December 13, 2007 based on the following. According to the petition, the EFS transmission was actually completed at 8:58pm, Pacific Standard Time. Petitioner bases this on his assertion that the clocks on his cell phone and portable e-mail device (whose time is set by the cell phone company) indicated a time of 8:58pm when the transmission was completed. In addition, petitioner points out that at 8:58pm, he still could have taken his application to the USPS Westchester/LAX Aiport Station post office and deposited his application as Express Mail, as that office is open and accepts Express Mail mailings until 11:00pm. Petitioner's arguments have been considered, but are not

persuasive. 35 USC 111(a)(4) states that "[t]he filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office." In addition, the Office has stated that as the USPTO is located in the Eastern Time Zone, the date of receipt shall be the date that the documents are "fully, successfully, and officially received" at the USPTO.[1] Accordingly, as the application was not received in the Office until December 14, 2007, it can not be accorded an earlier filing date.

Moreover, the "Electronic Filing Receipt" indicated that the application had been accorded the December 14, 2007 filing date, and it bore a time stamp entry of "00:00:38". As such, the receipt placed applicants on notice that the application had been accorded the December 14, 2007 date.

The application is being forwarded to Group Art Unit 2876.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] Legal Framework for EFS-Web, located at http://www.uspto.gov/patents/process/file/efs/guidance/legalframework_2008.pdf

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/956,363 | 12/14/2007 | Anke Weissenborn | SCHWP0327USA | 7346 |

7590 07/08/2010

RENNER, OTTO, BOISSELLE & SKLAR, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

| EXAMINER | |
|---|---|
| MEHTA, BHAVESH M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2624 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/08/2010 | 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

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. |
|---|---|---|---|---|
| 11/956,369 | 12/14/2007 | Kazunori SUZUKI | 2018-1863 | 7355 |

7590 12/24/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER | |
|---|---|
| TRAN, DIEM T | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3748 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/24/2009 | 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

12/23/2009 8036370163

Credit Card Refund Totals $510.00

Adjustment date: 12/23/2009
12/14/2007 INTEFSU 00004730 11956369
02 FC:1111 -510.00

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**Dickinson Wright PLLC**
**38525 Woodward Avenue**
**Suite 2000**
**Bloomfield Hills, MI 48304**

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JUN 0 4 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| James R. Mischler, et al. | : | |
| Application No. 11/956,435 | : | DECISION ON PETITION |
| Filed: December 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 36708-25 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jermoe R. Drouillard on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 19, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **James R. Mischler**
**8303 Francis Road**
**Girard, PA 16417**

cc: **General Electric Company**
**1 River Road**
**Schenectady, NY 12345**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/956,435 | 12/14/2007 | James R. Mischler | 36708-25 |

**CONFIRMATION NO. 7464**

**POWER OF ATTORNEY NOTICE**

27256
Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills, MI 48304

Date Mailed: 05/26/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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INTERNATIONAL TRUCK
INTELLECTUAL PROPERTY COMPANY,
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

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MAR 17 2008

**OFFICE OF PETITIONS**

In re Application of :
Bruce B. Burnett et al. : DECISION ON PETITION
Application No. 11/956,503 :
Filed: December 14, 2007 :
Attorney Docket No. D6274 Non Prov. :

This is a decision on the petition under 37 CFR 1.57(a), filed February 20, 2008, requesting that the above-referenced application be accorded a filing date of December 14, 2007 with a complete set of formal drawings.

On December 14, 2007, applicants filed the above-identified application. On January 4, 2008, the Office of Initial Patent Examination mailed a Notice to File Missing Parts which also noted that while the application had been accorded a filing date of December 14, 2007, Figures 25-27, as described in the specification appeared to have been omitted.

In response thereof, the instant petition and a complete set of drawings, including Figures 25-27 previously omitted from the original application papers filed December 14, 2007, were filed. Applicants state that the present application claims the benefit of provisional application 60/883,087 filed January 2, 2007, and that a proper priority claim was timely filed.

37 CFR 1.57(a) provides:

> [I]f all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim for priority or benefit shall be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawings. MPEP 201.17.

Therefore, if an application, as originally filed on or after September 21, 2004, does not include an explicit incorporation by reference statement in the specification, and is entitled to a filing date despite the inadvertent omission of a portion of the prior filed application(s), an applicant may be permitted to add the omitted material by filing an amendment under 37 CFR 1.57(a) within the time period set by the Office. See 37 CFR 1.57(a)(1) and MPEP 201.06(c)(IV).

A review of the record indicates that the above-identified application as originally filed on December 14, 2007 did in fact include an explicit incorporation by reference statement in the specification.

The inclusion of an incorporation by reference of the prior filed application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c). A review of the application-as-filed reveals that the specification, filed concurrently with the instant application, contained such a statement.

Obviously, in view of the incorporation by reference, Figures 25-27 as described in the specification is not new matter if it was a part of the disclosure of the prior filed provisional application.

Accordingly, the petition is **DISMISSED**.

The petition fee in the amount of $400.00 will be refunded to deposit account no. 14-0603.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of December 14, 2007, using the application papers received in the Office on that date and with an indication in Office records that Figures 25-27 as described in the specification while not included with the application papers upon filing, were a part of the original disclosure.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

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KENNAMETAL INC.
Intellectual Property Department
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE PA 15650

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of
Filho, et al.
Application No. 11/956,520
Filed: December 14, 2007
Attorney Docket No. K-2588
For: ASSEMBLY FOR ROTATING A CUTTING INSERT DURING A TURNING OPERATION AND INSERTS USED THEREIN

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), requesting the Office expunge a portion of the application file. In addition, this decision addresses the petition to expedite under 37 CFR 1.182 and the petition for withdrawal of express abandonment under 37 CFR 1.182, which is being treated under 37 CFR 1.181. All petitions were filed on December 10, 2008.

The petition under 37 CFR 1.59(b) is **dismissed as moot**.

The petition under 37 CFR 1.181 for withdrawal of express abandonment is **granted**.

The petition under 37 CFR 1.182 to expedite is **granted**.

Petitioners request the removal of an express abandonment, filed on December 8, 2008, in Application No. 11/974,214. Petitioners assert that the express abandonment was intended to be filed in another application, but through inadvertent error, it was filed in the present application. It is noted that all identifying information, other than the application number, cited on the December 8, 2008 express abandonment corresponds to Application No. 12/053,749.

Relief under 37 CFR 1.59(b) may be granted if certain criteria are met.

(1) The information to be expunged must not be part of the original disclosure. The original disclosure consists of elements such as the written specification, claims, and drawings. In certain circumstances, a preliminary amendment will be considered part of the original disclosure.

(2) The information to be expunged must not be material information under 37 CFR 1.56.[1]
(3) The Office must have sufficient time to expunge the material prior to issuance of the application as a patent.
(4) The petition must state the information 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.
(5) The information must not have already been made public.
(6) Petitioner must commit to retaining the information for the period of any patent with regard to which such is submitted.
(7) Petitioner must pay the petition fee.

Per 724.05 [R-3] Petition To Expunge Information or Copy of Papers in Application File
III. INFORMATION SUBMITTED IN INCORRECT APPLICATION:

37 CFR 1.59(b) also covers the situation where an unintended heading has been placed on papers so that they are present in an incorrect application file. In such a situation, a petition should request that the papers be expunged rather than transferred to the correct application file. For Image File Wrapper (IFW) processing, see IFW Manual. The grant of such a petition will be governed by the factors enumerated above in regard to the unintentional submission of information. **Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g., application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.** (emphasis added)

A review of the identifying information in the heading of the express abandonment should have resulted in the paper being matched with Application No. 12/053,749. As such, the petition to expunge is dismissed as moot. The December 8, 2008 express abandonment will be transferred to Application No. 12/053,749.

Application No. 11/956,520 is restored to pending status.

Regarding fees, deposit account no. 23-0650 will be charged a $400.00 Rule 182 petition to expedite fee.

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

---

[1] "Materiality is not limited to prior art but embraces *any* information that a reasonable examiner would be substantially likely to consider important in deciding whether to allow an application to issue as a patent." Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer, Inc., 326 F.3d 1226, 1234, 66 USPQ2d 1481, 1486 (Fed. Cir. 2003) (emphasis in original) (finding article which was not prior art to be material to enablement issue).

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 application will be returned to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JAMES G. PORCELLI
THE WEBB LAW FIRM
436 SEVENTH AVENUE
700 KOPPERS BUILDING
PITTSBURGH PA 15219

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**Karr Tuttle Campbell**
**ATTN: PRIYA SINHA CLOUTIER**
**1201 Third Ave., Ste 2900**
**Seattle WA 98101**

**COPY MAILED**

DEC 3 0 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James Ng | : | DECISION ON PETITION |
| Application No. 11/956,559 | : | TO WITHDRAW |
| Filed: December 14, 2007 | : | FROM RECORD |
| Attorney Docket No. 150-002-07 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 11, 2009, 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 Karr Tuttle Campbell does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Karr Tuttle Campbell not having power of attorney. See MPEP §§ 601.03 and 405.

Accordingly, all future communications from the Office will be directed solely to the above current address of record until proper instructions have been received.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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CALFEE, HALTER & GRISWOLD LLP
1400 KEYBANK CENTER
800 SUPERIOR AVENUE
CLEVELAND, OH 44114

Mail Date: 05/03/2010

| | | |
|---|---|---|
| **Applicant** | : Christopher Rohde | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7610784 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/956,581 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No**.:20100623

**DATE** :

**TO SPE OF** : ART UNIT

**SUBJECT** : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
**Certificates of Correction Branch - ST (South Tower) 9A22**
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance** **Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

**Comments:**

/BENJAMIN C. LEE/
Supervisory Patent Examiner, Art Unit 2612

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/956,630 | 12/14/2007 | Larry D. Knerr | 1484-025 | 7846 |

32905 7590 06/13/2008

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

| EXAMINER | |
|---|---|
| KRUSE, DAVID H | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1638 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/13/2008 | 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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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

JUN 13 2008

In re Application of:
Larry D. Knerr
Serial No.: 11/956,630
Filed: December 14, 2007
Attorney Docket No.: 1484-025

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed June 3, 2008, 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 3, 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.

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/Program Manager
Technology Center 1600

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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.: 11/956,630
Filed: December 14, 2007
Attorney Docket No.: **1484-025**

: 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 5, 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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**Townsend and Townsend and Crew, LLP**
**Two Embarcadero Center**
**Eighth Floor**
**San Francisco, CA 94111-3834**

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Stephen L. Bolea, et al. :
Application No. 11/956,685 : DECISION ON PETITION
Filed: December 14, 2007 : TO WITHDRAW
Attorney Docket No. 021433-000460US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James M. Heslin on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Stephen L. Bolea**
**741 105th Street, SE**
**Watertown, MN 55388**

cc: **Patterson, Thuente, Skaar & Christensen, P.A.**
**4800 IDS Center**
**80 South 8th Street**
**Minneapolis, MN 55402-2100**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/956,685 | 12/14/2007 | Stephen L. Bolea | 021433-000460US |

**CONFIRMATION NO. 7957**

**POWER OF ATTORNEY NOTICE**

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

*OC000000035822528*

Date Mailed: 05/05/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**22ND FLOOR**
**HARTFORD, CT 06103**

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MAR 1 8 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Zhang et al. | : | |
| Application No. 11/956,735 | : | ON PETITION |
| Filed: December 14, 2007 | : | |
| Attorney Docket No. YOR920070623US1 | : | |

This is a decision on the petition under 37 CFR 1.182, filed February 26, 2008, 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. Liang-Jie Zhang

2. Jia Zhang

Petitioner submitted $130.00 towards payment of the $400.00 petition fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

This matter is now being referred to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/956,735 | 12/14/2007 | 2614 | 1160 | YOR920070623US1 | 17 | 3 |

**CONFIRMATION NO. 8044**

**CORRECTED FILING RECEIPT**

48915
CANTOR COLBURN LLP-IBM YORKTOWN
20 Church Street
22nd Floor
Hartford, CT 06103

Date Mailed: 03/17/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)**

Liang-Jie Zhang, Cortlandt Manor, NY;
Jia Zhang, DeKalb, IL;

**Assignment For Published Patent Application**

INTERNATIONAL BUSINESS MACHINES CORPORATION, Armonk, NY

**Power of Attorney:** The patent practitioners associated with Customer Number 48915

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

**If Required, Foreign Filing License Granted:** 02/28/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/956,735**

**Projected Publication Date:** 06/18/2009

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

METHOD AND APPARATUS FOR THE DESIGN AND DEVELOPMENT OF SERVICE-ORIENTED ARCHITECTURE (SOA) SOLUTIONS

**Preliminary Class**

379

## 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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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Nora Arellano | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7621591 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/956,786 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **34** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/956,907 | 12/14/2007 | Takeshi OHASHI | 319725US2 | 8342 |

7590 08/21/2009

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 |
|---|---|
| 08/21/2009 | 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:
08/21/2009 0030073551

Credit Card Refund Total: $720.00

Am Exp..: XXXXXXXXXXX1000

Adjustment date: 08/21/2009 NFARMER
12/17/2007 INTEFSW 00001175 11956907
02 FC:1111 -510.00 OP
04 FC:1201 -210.00 OP

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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Brian R. Dickinson | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7637023 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/956,936 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/14/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **184** 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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DEC 0 8 2008

**OFFICE OF PETITIONS**

In re Application of
Nakagawa
Application No. 11/956,954
Filed: December 14, 2007
Attorney Docket No. 1745.1002D

DECISION ON PETITION

This is a decision on the petition, filed October 21, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application, which was mailed on February 4, 2008. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 5, 2008. A Notice of Abandonment was mailed on October 10, 2008.

Petitioner asserts that the Notice to File Missing Parts dated February 4, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner

should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question.

*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Items (1) and (3) have not been satisfied.

As to item (1), petitioner needs to describe the system used for recording Office actions and establish that the system was sufficiently reliable.

As to item (3), a review of the docket records shows that petitioner has failed to provide master docket records for the firm. Nor has petitioner stated that a master docket does not exist. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP 711.03(c). Petitioner has only provided an individual docket record for the above-identified application.

Accordingly, absent the required evidence to establish nonreceipt of the Notice to File Missing Parts of February 4, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1620.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Nakagawa et al. :
Application No 11/956,954 : DECISION ON PETITION
Filed: December 14, 2007 :
Attorney Dkt. No: 1745.1002D :
For: Roll of Packaging Material, Packaging Machine Using The Roll of Packaging Material and Product Handling System Comprising The Packaging Machine

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts in a Nonprovisional Application (Notice), mailed February 4, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2008. A Notice of Abandonment was mailed October 10, 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 execute 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/956,969 | 12/14/2007 | Bas Ording | P4304US1/63266-5054US | 8460 |

61725 7590 02/29/2008

MORGAN LEWIS & BOCKIUS LLP/ APPLE COMPUTER INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

| EXAMINER | |
|---|---|
| WILEY, DAVID ARMAND | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2174 | |

| 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

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02/28/08

MORGAN LEWIS & BOCKIUS LLP
APPLE COMPUTER INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

In re Application of: Bas ORDING
Serial No.: 11/956,969
Filed: December 14, 2007
Docket: P4304US1/63266-5054US
Title: LIST SCROLLING AND DOCUMENT TRANSLATION, SCALING, AND ROTATION ON A TOUCH-SCREEN DISPLAY

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 14, 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 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. 1-4, II. 1-4, 5, 5.1, 6.1 - 6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.2 & 5.3 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 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 claim. Note, the provision of the identified search area and search logic provided to locate the references cited in the instant petition does not meet this requirement, in particular, based upon the claimed subject matter of the instant application, a search in the following class and subclass 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 (where the instant application is classified), as well as class 715 subclasses 702, 781, 788 and 831 (consistent with the "computer implemented method" of claims 1-18, the "device" of claim 19 and the "computer readable storage medium" of claim 20) should be searched.

With respect to the search logic identified, corresponding to the instant claim language, the search terms utilized appear be too narrow. In conjunction with the above noted classification search, the following additional (supplemental) search terms and their various combinations (or equivalent) should be incorporated to complete the search:

```
stylus with touch adj3 (screen or display)

stylus near3 touch adj3 (screen or display)
```

This additional recommended search area was confirmed with (and recommended by) a (primary) examiner in the pertinent art area, based upon the pending claim of the instant application.

Thus, the petition does not meet the conditions II. 5.2 and 5.3 above.

## DECISION

[1] MPEP 8th ed. rev 5 August 2006

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.

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. |
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| 11/956,969 | 12/14/2007 | Bas Ording | P4304US1/63266-5054US | 8460 |

61725 7590 04/18/2008

MORGAN LEWIS & BOCKIUS LLP/ APPLE INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

| EXAMINER | |
|---|---|
| WILEY, DAVID ARMAND | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2174 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/18/2008 | 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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04/17/2008

MORGAN LEWIS & BOCKIUS LLP
APPLE INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

In re Application of:
Bas ORDING
Serial No.: 11/956,969
Filed: December 14, 2007
Docket: P4304US1/63266-5054US
Title: LIST SCROLLING AND DOCUMENT TRANSLATION, SCALING, AND ROTATION ON A TOUCH-SCREEN DISPLAY

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 December 14, 2007 was dismissed in the decision mailed on February 29, 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.

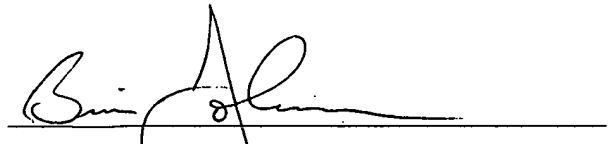
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 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. |
|---|---|---|---|---|
| 11/956,981 | 12/14/2007 | Paul V. Morinville | IBIG1100-7 | 8485 |

7590 11/06/2009

LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN, TX 78746

| EXAMINER | |
|---|---|
| ABDI, KAMBIZ | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3684 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/06/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Def:
11/06/2009 0033076527

Credit Card Refund Total: $255.00

VISA....: XXXXXXXXXXXX9357

Adjustment date: 11/06/2009 NFARMER
12/17/2007 INTEFSU 00001658 11956981
02 FC:2111 -255.00 CP

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**PO BOX 3001**
**BRIARCLIFF MANOR NY 10510-8001**

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MAR 2 0 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Aldaz et al. | : | |
| Application No. 11/956,984 | : | ON PETITION |
| Filed: December 14, 2007 | : | |
| Attorney Docket No. PH009234US1 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Replacement Drawings, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Patent Application Processing for further processing. Thereafter, the application will be referred to Technology Center AU 2828 for examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**HELLER EHRMAN LLP**
**4390 LA JOLLA VILLAGE DRIVE, #700**
**7TH FLOOR**
**SAN DIEGO, CA 92122**

**COPY MAILED**

**NOV 17 2008**

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Yu "Brian" ZHENG | : | |
| Application No. 11/957,001 | : | DECISION ON PETITION |
| Filed: December 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 44435-0002CIP5 | : | 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 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Steven A. Moore on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The correspondence address of record 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: YUN BRIAN ZHENG
19901 TENNESSEE TRAIL,
WALNUT, CA 91789

cc: PATENT CATEGORY CORPORATION,
ATTN: THOMAS DOVER
368 S. CHERYL LANE
INDUSTRY, CA 91789

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,021 | 12/14/2007 | Paul V. Morinville | IBIG1100-8 | 8551 |

7590 11/06/2009

LAW OFFICES OF MARK L. BERRIER
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AUSTIN, TX 78746

| EXAMINER | |
|---|---|
| PADOT, TIMOTHY | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3624 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/06/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
11/03/2009 6030276528

Credit Card Refund Total: $255.00

User....: XXXXXXXXXXXX9357

Adjustment date: 11/06/2009 NFARMER
12/17/2007 INTEFSU 00001816 11957021
02 FC:2111 -255.00 OP

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JAN 30 2009

**OFFICE OF PETITIONS**

In re application of :
Patrick N. Grillot, et al. :
Application No. 11/957,031 : ON PETITION
Deposited: December 14, 2007 :
Attorney Docket No. **PH009235US1** :

This is a decision in response to a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(B), filed June 3, 2008, which is being treated as a petition to withdraw the "Notice of Termination of Proceedings Under 37 CFR 1.53(e)" and to accord the application a filing date of December 14, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition to withdraw the Notice of Termination of Proceedings Under 37 CFR 1.53(e) is **GRANTED.**

The petition to accord the above-identified application a filing date of December 14, 2007 is **GRANTED.**

**BACKGROUND**

A review of the record shows that the application was deposited on December 14, 2007. However, on January 17, 2008, a Notice of Incomplete Nonprovisional Application was mailed, requiring drawings. On May 2, 2008, a Notice of Termination of Proceeding Under 37 CFR 1.53(e) was mailed stating that the proceedings on the above-application were terminated because (1) the application did not meet the requirements to be entitled to a filing date, and (2)

the filing error specified in the January 17, 2008 Notice was not timely corrected. In response, on June 3, 2008, the present petition was filed, including the omitted drawings and a newly executed declaration. There is no argument that the drawings were present on filing.

Preliminarily, it is noted that the application was not abandoned within the meaning of 37 CFR 1.137(b) but rather proceedings were terminated. Thus, the filing of a petition to revive is inappropriate.

**RELEVANT STATUES AND REGULATIONS**

35 U.S.C. 111(a)(4) provides that:

> … The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It is the practice of the Office 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 …, directed to 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 without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g), so long as the application contains something that can be construed as a written description.

And MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, …, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

**DISCUSSION**

As previously stated, the application was not abandoned. Rather, the application was deemed to be incomplete and not entitled to a filing date because it was filed without drawings. Proceedings were terminated when drawings were not filed.

The application has been reviewed and it is controlling that the application as deposited on December 14, 2007 included method claims. Thus, the application, containing a specification and at least one method claim was complete within the meaning of 37 CFR 1.53(b), and entitled to a filing date of December 14, 2007. See MPEP 601(f).

It is noted that drawings were submitted on June 3, 2008. However, the application is not entitled to a filing date of December 14, 2007, with the drawings present in the application.

Accordingly, the petition is granted to the extent that the nonprovisional application will be accorded the December 14, 2007 filing date with no drawings as a part of the original disclosure of the application.

Given the basis for granting the petition to accord a filing date of December 14, 2007, the $1,540 petition fee is subject to refund.

If applicant desires that this application be accorded a filing date of June 3, 2008, the date of filing of the omitted drawings, then an appropriate petition under 37 CFR 1.82 (with the $400.00 petition fee) must be promptly filed.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for:

- **according the filing date of December 17, 2005**, using the papers filed on that date;
- indication in Office records, as appropriate, that "0" sheets of drawings were present on filing (a present, the drawings filed June 3, 2008 will not be entered); and
- **withdrawing of the Notice of Termination of Proceedings mailed May 2, 2008** and processing of any fee adjustments, as appropriate.

Applicant will receive appropriate notifications regarding any missing items or fees owed, and other information in due course from OPAP.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: AZIR U. HAQUE
PHILIPS ELECTRONICS NORTH AMERCIA CORP.
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROD MS 91-MG
SAN JOSE, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,048 | 12/14/2007 | Paul V. Morinville | IBIG1100-9 | 8592 |

7590 11/06/2009

LAW OFFICES OF MARK L. BERRIER
3811 BEE CAVES ROAD
SUITE 204
AUSTIN, TX 78746

| EXAMINER | |
|---|---|
| MANSFIELD, THOMAS L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3624 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/06/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
11/06/2009 0033076529

Credit Card Refund Total: $255.00

VISA....: XXXXXXXXXXXX9357

Adjustment date: 11/06/2009 NFARMER
12/17/2007 INTEFSW 00001951 11957048
02 FC:2111 -255.00 DP

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,078 | 12/14/2007 | Paul V. Morinville | IBIG1110-3 | 8642 |

7590 11/06/2009
LAW OFFICES OF MARK L. BERRIER
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SUITE 204
AUSTIN, TX 78746

| EXAMINER |
|---|
| DICKERSON, TIPHANY B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3623 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/06/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
11/06/2009 [illegible]

Credit Card Refund Total: $255.00

[illegible]

Adjustment date: 11/06/2009 NFARMER
12/17/2007 INTERSE 00002262 11957078
02 FC:2111 -255.00 OP



FORM PET651G (Rev. 08/07)

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,102 | 12/14/2007 | Chieh-Chun Chau | 077409.1099 | 8685 |

28763 7590 05/25/2010

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK, NY 10112-4498

| EXAMINER | |
|---|---|
| KASHNIKOW, ERIK | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1782 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/25/2010 | 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):

DLNYDocket@bakerbotts.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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CT

May 24, 2010

| | | |
|---|---|---|
| In re application of | : | DECISION ON REQUEST TO |
| Chieh-Chun Chau et al | : | PARTICIPATE IN PATENT |
| Serial No. 11/957,102 | : | PROSECUTION HIGHWAY |
| Filed: December 14, 2007 | : | PROGRAM AND |
| For: ENCAPSULATED ACTIVATED CARBON AND THE PREPARATION THEREOF | : | 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 March 19, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

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 and a statement that the English translation is accurate, if the claims are not in the English language;

(4) Applicant must submit a claims correspondence table in English and all the independent 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 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).

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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P.O. Box 1450
Alexandria, VA 22313-1450
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CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

FEB 28 2008

In re Application of: Dawson, Patrick et al.
Application No.: 11/957,155
Filed: December 14, 2007
Title: GOLF CLUB HEAD WITH HIGH MOMENT OF INERTIA

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 December 14, 2007 on to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 U.S.C. 103(c).

## REVIEW OF FACTS

The conditions I: 1-4, II: 1-5, 5.1, 5.2, 5.3, 6, 6.1, 6.2, 6.4 and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 6.3, and 6.5 above.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

**Discussion**

When referring to "the petition" herein below, the received papers under consideration include the four page PTO/SB/28 form "Petition to Make Special Under Accelerated Examination Program", the "pre-examination search document" including pages 1-4; the "accelerated examination support document" comprising pages 1-18, and an Information Disclosure Statement including form PTO/SB/08A(substitute PTO-1449 A).

With regard to the requirements of section II elements 5.1 and 5.2, it is observed that while the search appears to be reasonable, all the patents cited are assigned to the assignee of the present application. This raises a concern that the search of foreign data bases and non-patent literature (NPL) may not be adequate enough.

With respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how the claim is patentable over (each of) the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish the claim from each piece of prior art cited. General statements that the claim is neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claim and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. In the instant petition, Applicant gave a broad and all-encompassing statement as to why the single claim in the instant application is not anticipated by the most closely related prior art references cited (see pp. 8-9 of the Examination Support Document). For these reasons, the petition does not meet the requirement of section II, element 6.3. The requirement of section II element 6.3 can be satisfied by listing the presently filed claim (i.e., the claim of the instant application) and by indicating which specific limitation(s) in said presently filed claim define(s) over each one of the most closely related references that has been cited. This patentability showing should be performed individually, with regard to each one of the most closely related prior art that has been cited, one reference at a time. The patentability analysis related to 35 U.S.C. 103(a) is accepted.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. The instant petition identifies at times figures and portions of text with respect to bundled limitations as opposed to the required individual claim limitations. For example, the following mapping appears on pp. 13-14: *"With respect to claim 1, a golf club head that is partitioned into a first section, a second section and a third section, with the first section extending rearward from the front wall 10% of the length of the golf*

*club head, the third section extending forward from the rear wall 10% of the length of the golf club head as measured from the front wall to the rear wall, and the second section positioned between the first section and the third section, wherein the first section has at least 40% of the golf club head is described at least at paragraphs [0006], [0038] and [0039], and FIGS. 5-8 of the present application."* This mapping lacks specificity, because the combination of paragraphs 6, 38, and 39 extend over at least 2 pages. The requirement of section II element 6.5 can be satisfied by listing the presently filed claim and by indicating where the instant application teaches each limitation in each one of said presently filed claim, by indicating the element number and/or the relevant page and line numbers.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address all of the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Programs Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at 571 272-1170.

Ehud Gartenberg
Special Programs Examiner
Technology Center 3700

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CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

APR 03 2008

In re Application of: Dawson, Patrick, et al.
Application No.: 11/957,155
Filed: December 14, 2007
Title: GOLF CLUB HEAD WITH HIGH MOMENT OF INERTIA

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 regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg

Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

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MAILED Paper No.

MAY 19 2010

OFFICE OF PETITIONS

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

| | |
|---|---|
| In re Application of | : |
| Bozik et al. | : |
| Application No. 11/957,157 | : DECISION ON PETITIONS |
| Filed: December 14, 2007 | : PURSUANT TO 37 C.F.R. |
| Attorney Docket No. | : §§ 1.78(a)(3) AND (a)(6) |
| 131717.00701 | : |

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 10, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Supplemental Application Data Sheet (ADS).[1]

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional

[1] Petitioner has also submitted an amendment to the specification, however this amendment cannot be entered as it is embedded within the text of this petition. See 37 C.F.R. § 1.4(c).

information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional. 37 C.F.R. § 1.78(a)(6)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

Since the statement contained in this renewed petition varies from the language required by 37 C.F.R. §§ 1.78(a)(3)(iii) and 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. §§ 1.78(a)(3)(iii) and 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR §§ 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and***

***determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1612 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Chris Bottorff
Supervisor
Office of Petitions

**ATTACHMENT** : Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/957,157 | 12/14/2007 | 1612 | 4290 | 131717.00701 | 138 | 11 |

**CONFIRMATION NO. 8782**

**CORRECTED FILING RECEIPT**

21269
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

Date Mailed: 05/13/2010

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)**

Michael E. Bozik, Pittsburgh, PA;
Thomas Petzinger JR., Pittsburgh, PA;
Valentin Gribkoff, Wallingford, CT;

**Assignment For Published Patent Application**

KNOPP NEUROSCIENCES, INC., Pittsburgh, PA

**Power of Attorney:** The patent practitioners associated with Customer Number 21269

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/870,009 12/14/2006
and claims benefit of 60/894,835 03/14/2007
and claims benefit of 60/894,829 03/14/2007
and claims benefit of 60/894,799 03/14/2007
and claims benefit of 60/979,049 10/10/2007
and is a CIP of 11/733,642 04/10/2007
which claims benefit of 60/744,540 04/10/2006
and claims benefit of 60/746,441 05/04/2006
and claims benefit of 60/747,317 05/16/2006
and claims benefit of 60/747,320 05/16/2006
and claims benefit of 60/829,066 10/11/2006
and claims benefit of 60/870,009 12/14/2006
and claims benefit of 60/894,799 03/14/2007
and claims benefit of 60/894,829 03/14/2007
and claims benefit of 60/894,835 03/14/2007
This application 11/957,157
is a CIP of 11/749,497 05/16/2007

which claims benefit of 60/747,320 05/16/2006
and claims benefit of 60/870,009 12/14/2006
and claims benefit of 60/894,799 03/14/2007
and claims benefit of 60/894,829 03/14/2007
and claims benefit of 60/894,835 03/14/2007
and is a CIP of 11/733,642 04/10/2007

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 08/12/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/957,157**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****
**Title**

COMPOSITIONS AND METHODS OF USING (R)-PRAMIPEXOLE

**Preliminary Class**

514

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign

patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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**Rader, Fishman & Grauer, PLLC**
**39533 Woodward Avenue**
**Suite 140**
**Bloomfield Hills, MI 48304-0610**

COPY MAILED

JAN 24 2008

OFFICE OF PETITIONS

In re Application of :
Raymond Bruce Martin :
Application No. 11/957,179 : DECISION ON PETITION
Filed: December 14, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 66217-0007 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration by applicant Raymond B. Martin and a photocopy of his 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 3751 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,203 | 12/14/2007 | Joseph E. Bolan | RPS920070291US1 | 8871 |

56102 7590 04/14/2008

IBM (RPS-BLF)
c/o BIGGERS & OHANIAN, LLP
P.O. BOX 1469
AUSTIN, TX 78767-1469

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 2186 | |

| 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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Brandon C. Kennedy
IBM (RPS-BLF)
c/o BIGGERS & CHANIAN, LLP
P.O. Box 1469
Austin, Texas 78767-1469

*In re* Application of:
Joseph E. BOLAN, et al
Application No.: 11/957,203
Filed: December 14, 2007
For: MANAGING VIRTUAL ADDRESSES OF A BLADE SERVER IN A DATA CENTER

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 01 April 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 01 April 2004 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. 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 petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 01 April 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application.

The document identified as "VOJNOVICH; BladeCenter BOFM Parameter Specification 0.94.005.doc; e server; 09/8/07 ..." have been scanned into image; thus, cannot be returned. However, the document has been closed from public view for time being.

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
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In re Application of:
KIM, ANDREW
Serial No.: 11/957,225
Filed: December 14, 2007

Title: **SPATIAL-DRIVEN CONTEXT ZONES FOR SENSOR NETWORKS AND DEVICE INFRASTRUCTURES**

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 14, 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 5.1-5.3 and 6.3.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding items 5.1-5.3 above, the preexamination search is deficient in that the following classes and subclasses should have been searched: 370/328, 338 and 455/500, 501. Regarding the requirement in item 6.3 above, the "Accelerated Examination Support Document", is deficient inasmuch as petitioner does not provide a "detailed explanation of how ***each of the claims*** are patentable over the references cited with the particularity required by 37 CFR 1.111(b) and (c). Rather, petitioner has provided a broad statement that all of the references identified do not teach nor suggest a sensor network and then recites the entire claim without specifying which limitations make the claim(s) allowable. The petition 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) as required by item 6.3. Furthermore, since there is no differentiation between each of the claims (both independent and dependent) as to what renders them patentable, it is not clear whether any of the dependent claims would stand or fall together with the claims they depend from. It is presumed any claim that is not separately argued for patentability, stands or falls with the claims it depends from. If this is not accurate, then any request for reconsideration must provide a detailed explanation in regard to ***each of the claims*** as set forth in item 6.3 above.

## DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
KIM, ANDREW
Serial No.: 11/957,225
Filed: December 14,2007

Title: **SPATIAL-DRIVEN CONTEXT ZONES FOR SENSOR NETWORKS AND DEVICE INFRASTRUCTURES**

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 March 4, 2008 requesting reconsideration that the above-identified application be made 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.

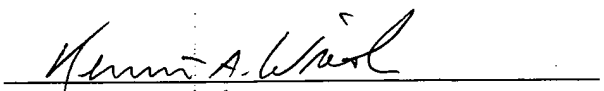
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 Ken Wieder, Quality Assurance Specialist, at (571) 272-2986.



Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,281 | 12/14/2007 | ALEXANDER V. ERSHOV | 2405.0120001 | 9016 |

54089 7590 03/10/2008

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| EXAMINER | |
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| MOFIZ, APU M | |

| ART UNIT | PAPER NUMBER |
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| 2161 | |

| MAIL DATE | DELIVERY MODE |
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| 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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BARDMESSER LAW GROUP, P.C.
910 17TH STREET, N.W.
SUITE 800
WASHINGTON DC 20006

In re Application of:
Alexander V. Ershov
Serial No.: 11/957,281
Filed: December 14, 2007
Docket: 2405.0120001
Title: GUI FOR SUBJECT MATTER NAVIGATION USING MAPS AND SEARCH TERMS

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 14, 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 January 2, 2008 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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OFFICE OF PETITIONS

In re Application of :
Alexander V. Ershov : DECISION ON PETITION
Application Number: 11/957281 :
Filing Date: 12/14/2007 :
Attorney Docket Number: :
2405.0120001 :

This is a decision on the petition filed on March 31, 2009, under 37 CFR 1.137(a), to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)," or "Petition Under 37 CFR 1.137(b)."

The application became abandoned on October 9, 2008, for failure to timely file a proper response to the non-final Office action for Applications Under Accelerated Examination mailed on September 8, 2008, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on April 3, 2009.

Petitioner asserts that the non-final Office action mailed on September 8, 2008 was never received. In support, petitioner has provided a statement by registered patent practitioner George S. Bardmesser stating that he never received the non-final Office action. The petition is also accompanied by an amendment in response to the non-final Office action.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition lacks item (3).

With regards to item (3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] 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,

[1] 35 U.S.C. § 133.

> there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

A review of the record indicates no irregularity in the mailing of the non-final Office action mailed on September 8, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the non-final Office action mailed on September 8, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action mailed on September 8, 2008 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

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[2] 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).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

**Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.**

**A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**

(emphasis added)

Petitioner has not provided a statement from the practitioner to the effect 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. In this case, since a one (1) 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 one (1) month 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.

Any renewed petition should be accompanied by a proper statement made by the practitioner.

Accordingly, the petition is dismissed, but such dismissal is without prejudice to reconsideration pending submission of the information requested above.

If petitioner is unable to provide the showing indicated above, petitioner may wish to consider filing a petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
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401 Dulany Street
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Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

In re Application of :
Alexander V. Ershov : DECISION ON PETITION
Application Number: 11/957281 :
Filing Date: 12/14/2007 :
Attorney Docket Number: :
2405.0120001 :

This is a decision on the petition filed on May 14, 2009, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 9, 2008, for failure to timely file a proper response to the non-final Office action for Applications Under Accelerated Examination mailed on September 8, 2008, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on April 3,

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

2009. The petition under 37 CFR 1.137(a) filed on March 31, 2009 was dismissed on May 6, 2009.

The subject petition under 37 CFR 1.137(b) was filed on May 14, 2009.

Receipt of the amendment filed March 31, 2009 is acknowledged.

The application will be referred to Technology Center Art Unit 2162 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,306 | 12/14/2007 | Takahiko Mihara | TOTOSH.020AUS | 9076 |

7590 11/05/2009

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

| EXAMINER | |
|---|---|
| NGUYEN, HOA T | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2627 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 11/05/2009 | 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:
11/05/2009 0332376447

Credit Card Refund Total: $510.00

Issued To: XXXXXXXXXXXX3583

Adjustment date: 11/05/2009 NFARMER
12/17/2007 INTEFSH 00003498 11957306
02 FC:1111 -510.00 OP

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**MORRISON & FOERSTER LLP**
**755 PAGE MILL RD**
**PALO ALTO, CA 94304-1018**

**COPY MAILED**

APR 2 8 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Robert VUKOVICH, et al | : | |
| Application No. 11/957,317 | : | DECISION ON PETITION |
| Filed: December 14, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 331640-4 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP, has been revoked by the assignee of the patent application on March 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
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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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY CA 91789

MAILED

NOV 10 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Juin-Hong Lin | : | |
| Application No. 11/957,345 | : | DECISION GRANTING PETITION |
| Filed: December 14, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. US15696 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on October 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries 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 2873 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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In re Application of
James D. Daley

Application No. 11957402

Filed: December 14,2007

Attorney Docket No. DAL-001

:
:
:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 10-SEP-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,431 | 12/15/2007 | Jong-ho Lee | Q100934 | 9314 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| HJERPE, RICHARD A | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/17/2007 INTEFSW 00004085 194080 11957431
02 FC:1111 510.00 CR
04 FC:1202 150.00 CR
05 FC:1201 210.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,460 | 12/16/2007 | Rolland Russell Martel | | 9371 |

7590 02/28/2008

ROLLAND R. MARTEL
110 JOHNSTONE STREET
LEXINGTON, VA 24450

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 3622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/28/2008 | 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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FEB 27 2008

TECHNOLOGY CENTER 3600

ROLLAND R. MARTEL
110 JOHNSTONE STREET
LEXINGTON VA 24450

In re application of : **DECISION ON PETITION**
Martel et al. : **TO MAKE SPECIAL FOR**
Application No. 11/957,460 : **NEW APPLICATION**
Filed: December 16, 2007 : **UNDER 37 CFR 1.102**
For: INTEGRATED EXCHANGE FOR 24 HOUR REAL TIME TRADING OF FUNGIBLES & CONTINUOUS CASH T+0 SETTLEMENT

This is a decision on the petition filed on December 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 **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 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 I.2 and I.4.

Condition I.2 requires that the application, the petition and the required fees be filed electronically. There is no record of payment of the petition fee nor is there authorization from the Applicant to charge this fee.

As per Condition I.4, there appear to be four independent claims. While Applicant refers to claims 2-4 as dependent claims on page 5 of the Accelerated Examination Support Document, the claims are written in such a way that each could be interpreted as an independent claim. For instance, claim 1 is improperly written as a hybrid claim since it is directed to both an apparatus and a process (see MPEP § 2173.05¶[R-5](II)). Furthermore, process claim 2 refers to the use of the accounts described in claim 1; however, claim 1 does not recite any accounts. There is no antecedent basis for these accounts and claim 2 appears to be directed toward a different invention than claim 1; therefore, claim 2 is constructively interpreted to be an independent claim. Process claim 3 refers to "any other account...described in claim 1"; however, claim 1 does not recite any accounts. There is no antecedent basis for these accounts and claim 3 appears to be directed toward a different invention than claim 1; therefore, claim 3 is constructively interpreted to be an independent claim. Process claim 4 refers to "other users of the Integrated Exchange described in claim 1"; however, claim 1 does not recite any users. There is no antecedent basis for these users and claim 4 appears to be directed toward a different invention than claim 1; therefore, claim 4 is constructively interpreted to be an independent claim.

The petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure. Given that the petition fee was not paid and there are four independent claims, which cannot be remedied after the date of filing, the petition has not been further reviewed on the merits.

Although the petition has not been further reviewed on the merits at this time, Applicant is reminded that an Accelerated Petition may be filed in another case (including a continuation). When preparing any future Accelerated Petitions for cases directed toward similar subject matter (i.e., the integrated exchange for 24 hour real time trading of fungibles and continuous cash T+0 settlement), Applicant should keep the following in mind:

As per Condition II.5, Applicant should include statements concerning items 8(a) through 8(e), as seen in the sample Pre-Examination Search Document listed on http://www.uspto.gov/web/patents/accelerated/

As per Condition II.5, Applicant should specify each database service and corresponding database files (within each service) that were searched.

As per Condition II.5, the Pre-examination Search Document must be signed by the attorney of record (or the Applicant, if the case is prosecuted *pro se*). Since the documents were submitted electronically, a proper electronic signature format should be used. Some samples of proper and improper signatures may be found at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/sigexamples_alt_text.pdf (It is noted that the Accelerated Examination Support Document is properly signed.)

As per Condition II.5.1, Applicant should 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 705/37. Looking toward the available search templates and recommended areas of search for class 705/37 (see http://www.uspto.gov/web/patents/searchtemplates/class705-035.htm), some of the more relevant search areas would include a text search related to **all** claimed concepts in the listed Non-Patent Literature database files. A comprehensive list of recommended database files are listed on the 705/37 search templates web page as well.

As per Condition II.5.2, a classification search is required at least in the class/subclass where the application is classified. The instant application is classified in 705/37.

As per Condition II.5.2, the exact search query syntax used in each database service should be listed. More synonyms, truncation (including plurals), and proximity operators should be utilized. The full text of a database file should be searched, when available.

As per Condition II.6.2, each claim limitation should be specifically mapped to the excerpt(s) in which it is taught in each cited reference.

Regarding Condition II.6.5, each claim should be specifically mapped to the excerpt(s) in which it is disclosed in the specification.

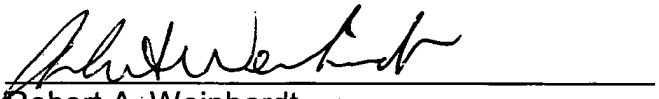
Applicant is reminded that the comments made with regards to Conditions II.5 through II.6.5 are not meant to serve as a formal evaluation of these elements of

the petition. Instead, these comments are meant to serve as guidance for any future Accelerated Examination petition filings.

DECISION

For the above stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Robert Weinhardt, Business Practice Specialist, at (571) 272-6633.



Robert A. Weinhardt,
Business Practice Specialist
Technology Center 3600

RW/SMD/1/31/08

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JAN 10 2008

TECHNOLOGY CENTER 3600

P. Jeff Martin of the McGougan Law Firm, LLC
2120 Sea Mountain Hwy., Suite 200
P.O. Box 4369
N. Myrtle Beach, SC 29597

In re application of
Timothy L. Bell
Application No. 11/957,461
Filed: December 16, 2007
For: DEVICE AND METHOD FOR CONVERTING AND PREVENTING CONVERSION OF A SEMI-AUTOMATIC FIREARM TO AN AUTOMATIC FIREARM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL FOR**
: **NEW APPLICATION**
: **UNDER 37 CFR 1.102**

This is a decision on the petition filed on December 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 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.2, II.5.2, II.6.2, II.6.3 and II.6.5, above.

As to condition I.2, there is no petition fee filed. Applicant has indicated that the "claimed subject matter is directed to countering terrorism". However, the petition lacks a statement indicating **how** the claimed invention is directed to countering terrorism. To avoid paying the petition fee applicant needs to provide more than a conclusionary statement, and expressly indicate how the claimed invention would function to counter terrorism. Any such explanation would need to provide a **direct** counter to terrorism, and providing only an indirect tie to countering terrorism would be held as insufficient.

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. Initially, it is noted that classes 42/69 and 42/70, outlined in applicant's search, don't exist. A proper classification search for this invention needs to include a search of 42/70.01 (where the application is classified) and 42/70.08; along with 89/140, 188, 194 and 199.

With respect to the required text search of the US Patents database, the search logic used by the applicant is too narrow to locate 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 acceptable search terms are provided below:

> "semi-automatic"; "automatic"; conversion with prevent$3; "weight with block$3; "mass with block$3"

The sample of search terms is 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.
Furthermore, in general, a search of foreign databases is required for a complete search. Normally, this requires at a minimum, a search of the JPO, EPO and WIPO databases. The sample search logic provided above can also apply to searching the foreign art databases.

There appears to have been no Non-Patent Literature (NPL) search outlined in the Search Document. An NPL search is required as well. The USPTO website has search templates that are broken down by class and subclass classification and provides a listing of the websites to be searched when dealing with claimed subject matter in those classifications at:
http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm.
The sample search logic provided above can also apply to searching the NPL databases.

An AESD that contains a list of references in the information disclosure statement (IDS) of the AESD, but does not include any identification and explanation for those references that are not required to be submitted in the IDS of the AESD (*i.e.*, references that are not most closely related to the subject matter of each of the claims) will be deemed insufficient for lack of identification and explanation. If applicant wishes to cite references that are not required in an AESD for the examiner to consider, applicant may submit such references in a separate IDS in compliance with 37 CFR 1.97 and 1.98. Applicant should clearly identify the IDS of the AESD that is in support of the petition to make special and, similarly, applicant should clearly identify the separate IDS that is not in support of the petition. Consistent with 37 CFR 10.18, any reference submitted in a separate IDS that is not part of an AESD will be treated as a representation by applicant to the USPTO that no reference submitted in the separate IDS is deemed closer to the subject matter of at least one claim than the references provided in the AESD.

A supplemental AESD is required if a reference being submitted in an IDS is deemed more closely related to the subject matter of at least one claim than the references provided in the previously-filed AESD. Consistent with 37 CFR 10.18, any reference submitted in a separate IDS that is not part of an AESD is a representation by applicant to the USPTO that no reference submitted in the separate IDS is deemed closer to the subject matter of at least one claim than the references provided in the AESD. If applicant deems references found after the initial filing to be closer to the subject matter of at least one claim than the references provided in the AESD, then applicant needs to supplement the AESD to account for these references.

In order to provide an adequate search applicant is required to submit an accelerated examination support document (AESD) that includes an IDS in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims (whether in independent or dependent form). Specifically:

> **(1)** Applicant **is not** required to cite the references that are only relevant to the general subject matter of the claims because there are references that are more closely related to the subject matter of the claims. Applicant is also not required to cite a reference that is cumulative to any other reference cited in the IDS.
> **(2)** Applicant **is** required to cite any reference that establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim (see 37 CFR 1.56(b)) in the IDS of the AESD.
> **(3)** Applicant **is** required to cite the reference that discloses the most limitations in the independent claim.
> **(4)** Applicant **is** required to cite any reference that discloses a limitation of an independent claim that is not shown in the other references.
> **(5)** Applicant **is** required to cite any reference that discloses a limitation of a dependent claim that is not shown in the other references.

As to condition II.6.2, since it is required that the most closely related references are to be submitted with the petition, all of the references submitted are considered to be "most closely related" and need to be completely addressed in the Support Document. There currently is not an adequate listing of all the limitations (or portions thereof) in each of the claims that are disclosed in each of the cited references, specifying where

each of the limitations (or portions thereof) are disclosed in each of the references. Since applicant appears to have not referenced specific claim language in the identification of the limitations disclosed by the references, it is not clear what claim limitations applicant is admitting are taught by the prior art. Given the above deficiencies noted in the search and search results, similar detail will be needed for any additional art uncovered.

As to condition II.6.3, there is not a satisfactory detailed explanation of claim patentability over each of the references. The explanation needs to specify how each of the claims are patentable over each of the cited references taken separately, which also includes the need to specify whether each of the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable.

The USPTO website has an example of the proper manner of documenting limitations taught by cited art, and the manner of explaining claim patentability over the references, for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

As to condition II.6.5, the showing of where each limitation of each of the claims finds support under 35 USC 112 in the written description of the application is insufficient. For each claimed limitation (including dependent claims) the petition needs to identify specific passages, or at least a single paragraph where each limitation provides support. Listing broadly a figure or pages of the specification for each claim limitation does not comply with what is required.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

DECISION

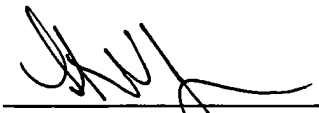
For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

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: 1/9/08

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**DENNIS CLARKE & ASSOCIATES, PLLC**
**7422 OLD MAPLE SQUARE**
**MCLEAN, VA 22102**

**COPY MAILED**

AUG 12 2009

**OFFICE OF PETITIONS**

In re Application of :
Kinfe **REDDA** :
Application No. 11/957,462 : DECISION ON PETITION
Filed: December 16, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed January 23, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the surcharge fee of $65, basic filing fee of $165, search fee of $270, additional claim fee $624 and examination fee of $110; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries regarding the status or examination of this application should be directed to the Office of Patent Application Processing at 571-272-4000.

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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

COPY MAILED

SEP 24 2008

OFFICE OF PETITIONS

In re Application of :
DOUNAEV et al. :
Application No. 11/957,535 : DECISION ON PETITION
Filed: December 17, 2007 :
Attorney Docket No. 0061.0003US1 :

This is in response to the petition under 37 CFR 1.57(a), filed August 8, 2008, requesting that the above-referenced application be accorded a filing date of December 17, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2).[1]

The application papers in the above-identified application were deposited on December 17, 2007. However, on August 4, 2008, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. Additionally, the Notice required the payment of fees in the amount of $435.00. In response, applicants timely filed this petition. Applicants request that the application 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:

> 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).

[1] Any request for review of a notification pursuant to § 1.53(e)(1), or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to § 1.53(e) accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition, the filing date of an application in which the applicants were notified of a filing error pursuant to § 1.53(e)(1) will be the date the filing error is corrected.

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 any amendment requesting entry of the inadvertently omitted drawing(s) must comply with 37 CFR 1.57(a) and 37 CFR 1.121 and will be considered by the examiner. See MPEP § 201.17.

The petition is **GRANTED** to the extent the instant application will be accorded a filing date of December 17, 2007, with no drawings as part of the original disclosure. Given the basis for granting this petition, the $400.00 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 December 17, 2007;**
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing, and;**
- **for issuance of a filing receipt.**

Applicants may request entry of the omitted figures by filing an amendment with the examiner prior to the first Office action on the merits. The determination of new matter will be made by the examiner.

Telephone inquiries concerning this matter may be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,570 | 12/17/2007 | Kenji KATOU | 2018-1877 | 9564 |

7590 01/08/2010

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

| EXAMINER | |
|---|---|
| DASTOURI, MEHRDAD | |
| ART UNIT | PAPER NUMBER |
| 2621 | |
| 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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 01/11/2010 NFARMER
12/17/2007 ANGEFSW 00005203 141140 11957570
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,590 | 12/17/2007 | Jong-ho LEE | Q102816 | 9597 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 2195 | |
| MAIL DATE | DELIVERY MODE |
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/17/2007 INTEFSW 00005931 194880 11957590
02 FC:1111 510.00 CR
04 FC:1201 210.00 CR

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**HDLS PATENT & TRADEMARK SERVICES**
**P.O. BOX 220746**
**CHANTILLY VA 20153-0746**

MAILED

APR 10 2009

OFFICE OF PETITIONS

In re Application of :
Yi-Ling Chang :
Application No. 11/957,594 : DECISION DISMISSING PETITION
Filed: December 17, 2007 :
Attorney Docket No. 95232USID :

This is a decision on the petition filed November 19, 2008 to Withdraw Notice To File Missing Parts.

The petition is **DISMISSED**.

Petitioner is advised that it is not the Office practice to pull an oath or declaration from the parent applicant or to copy that document from the parent. Applicant needs to supply the Office with a copy of the prior-filed oath or declaration. Therefore, the Notice To File Missing Parts (Notice) mailed September 19, 2008 will **NOT** be withdrawn.

The Notice mailed September 19, 2008, required a properly signed oath or declaration in compliance with 37 CFR 1.63 and the surcharge fee of $65.00 for late submission of the declaration. Petitioner only submitted a copy of the required declaration. **The surcharge fee of $65.00 has not been received and no authorization has been provided to charge the $65.00 surcharge fee.**

**Additionally, the time period continues to run from the mailing date of the Notice on September 19, 2008. No new time period is set.**

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br><br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | (571) 273-8300<br>ATTN: Office of Petitions |
| By internet: | EFS-Web<br>www.uspto.gov/ebc/efs_help.html<br>(for help using EFS-Web call the<br>Patent Electronic Business Center<br>at (866) 217-9197) |

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**KAO H. LU, ESQUIRE**
**1425 E. DARBY ROAD**
**HAVERTOWN, PA 19083**

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

COPY MAILED

FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
David Binder, et al. :
Application No. 11/957,601 : DECISION ON PETITION
Filed: January 2, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 60214-007PUS1 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 17, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by applicant Frederick Binder's attorney. 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 3754 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,623 | 12/17/2007 | Jong-ho Lee | Q102817 | 9654 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| HJERPE, RICHARD A | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/17/2007 INTEFSW 00006274 194880 11957623
02 FC:1111 510.00 CR
04 FC:1201 210.00 CR

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. |
|---|---|---|---|---|
| 11/957,642 | 12/17/2007 | Michael John Lamore | | 9682 |

76253 7590 12/23/2008

MICHAEL J. LAMORE
818 NORTHERN SHORES POINT
GREENSBORO, NC 27455

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 2831 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/23/2008 | 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J. LAMORE
818 NORTHERN SHORES POINT
GREENSBORO, NC 27455

| | | |
|---|---|---|
| In re Application of: | : | DECISION ON PETITION TO |
| Michael J. Lamore | : | MAKE SPECIAL FOR NEW |
| Serial No.: 11/957,642 | : | APPLICATION UNDER 37 |
| Filed: December 17, 2007 | : | C.F.R. § 1.102 & M.P.E.P. § |
| Title: CABLE HOUSING SYSTEM | : | 708.02 (XI) TERRORISM |

This is a decision on the petition filed on February 12, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102 and M.P.E.P. § 708.02 (XI) Terrorism.

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 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), all petitions to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). According to subsection I of M.P.E.P. §708.02(a), the following conditions must be satisfied:

(A) The application must be filed with a petition to make special under the accelerated examination program accompanied by either the fee set forth in 37 CFR 1.17(h) or a statement that the claimed subject matter is directed to environmental quality, the development or conservation of energy resources, or countering terrorism. See 37 CFR 1.102(c)(2). Applicant should use form PTO/SB/28 for filing the petition.

(B) The application must be a non-reissue utility or design application filed under 35 U.S.C. 111(a).

(C) The application, petition and required fees must be filed electronically using USPTO's electronic filing system (EFS), or EFS-web. If the USPTO's EFS and EFS-Web are not available to the public during the normal business hours for these systems at the time of filing the application, applicant may file the application, other papers and fees by mail accompanied by a statement that EFS and EFS-Web were not available during the normal business hours, but the final disposition of the application may occur later than twelve months from the filing of the application.

(D) At the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination.

(E) The application must contain three or fewer independent claims and twenty or fewer total claims. The application must also not contain any multiple dependent claims. By filing a petition to make special under the accelerated examination program the applicant is agreeing not to separately argue the patentability of any dependent claim during any appeal in the application. Specifically, the applicant is agreeing that the dependent claims will be grouped together with and not argued separately from the independent claim from which they depend in any appeal brief filed in the application (37 CFR 41.37(c)(1)(vii)). The petition must include a statement that applicant will agree not to separately argue the patentability of any dependent claim during any appeal in the application.

(F) The claims must be directed to a single invention. If the USPTO determines that all the claims presented are not directed to a single invention, applicant must make an election without traverse in a telephonic interview. The petition must include a statement that applicant will agree to make an election without traverse in a telephonic interview.

(G) The applicant must be willing to have an interview (including an interview before a first Office action) to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time. The petition must include a statement that applicant will agree to have such an interview when requested by the examiner.

(H) At the time of filing, applicant must provide a statement that a preexamination search was conducted, including an identification of the field of search by United States class and subclass and the date of the search, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search.

(I) At the time of filing, applicant must provide in support of the petition an accelerated examination support document.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102 because it was not filed with the petition to make special under the accelerated examination program (condition A above). In addition, the application as filed was not complete under 37 CFR 1.51 (condition D above), because it did not include the basic filing fee, search fee, and examination fee, under 37 CFR 1.16, as indicated in the Notice to file Missing Parts of

Nonprovisional Application mailed on January 14, 2008. The lack of fees under 37 CFR 1.16 is evidence that the application was not complete and in condition for examination at the time of filing. See M.P.E.P. § 708.02(a)(VIII)(C)(1). Finally, the petition does not include the requisite statements (conditions E, F, G and H above) and accelerated examination support document (condition I above).

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

JD/JC

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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. |
|---|---|---|---|---|
| 11/957,654 | 12/17/2007 | Jong-ho Lee | Q100935 | 9702 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| MAIL DATE | DELIVERY MODE |
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/17/2007 INTEFSW 00006521 194880 11957654
02 FC:1111 510.00 CR
04 FC:1202 150.00 CR

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Conley Rose, P.C.**
**David A. Rose**
**P.O. Box 3267**
**Houston, TX 77253-3267**

COPY MAILED

OCT 23 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Parker S. Lumpee | : | |
| Application No. 11/957,685 | : | DECISION ON PETITION |
| Filed: December 17, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 2537-00101 TJF | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 23, 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 Collin A. Rose 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 September 8, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lumpee Properties, Ltd.**
**1419 Harpers Ferry Road**
**College Station, TX 77845**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/957,685 | 12/17/2007 | Parker S. Lumpee | 2537-00101 TJF |

**CONFIRMATION NO. 9763**

**POWER OF ATTORNEY NOTICE**

23505
CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

*OC000000032741172*

Date Mailed: 10/23/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/23/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,693 | 12/17/2007 | Jong-ho LEE | Q102813 | 9777 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| CHOW, DOON Y | |
| **ART UNIT** | **PAPER NUMBER** |
| 4152 | |
| **MAIL DATE** | **DELIVERY MODE** |
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/17/2007 INTEFSW 00007060 194880 11957693
02 FC:1111 510.00 CR

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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,702 | 12/17/2007 | Donald E. Keski-Hynnila | 66578-0099 | 9794 |

10291 7590 10/29/2009

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

| EXAMINER | |
|---|---|
| MCCALL, ERIC SCOTT | |
| **ART UNIT** | **PAPER NUMBER** |
| 2855 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 10/29/2009 | 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

In re Patent Application of: Keski-Hynnila et al.
Appl No.: 11/957,702
Filed: Dec. 17, 2007
For: A METHOD OF VERIFYING COMPONENT FUNCTIONALITY ON EGR & AIR SYSTEMS

**DECISION GRANTING PETITION**
*37 CFR 1.48(a)*

This is a decision on the petition filed Oct. 08, 2009 to correct inventorship under 37 CFR 1.48(a).

The petition is granted.

The inventorship in this nonprovisional application has been changed by the addition of Martin Fritz.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/Eric S. McCall/
Primary Examiner
Art Unit 2855
Technology Center 2800

RADER, FISHMAN, & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

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

**SHELDON MAK ROSE & ANDERSON PC**
**100 CORSON STREET**
**THIRD FLOOR**
**PASADENA CA 91103-3842**

COPY MAILED

JUL 17 2008

OFFICE OF PETITIONS

In re Application of :
**SPIGNER,** Kathleen H. et al. :
Application No. 11/957,714 : DECISION ON PETITION
Filed: December 17, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **18272** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 17, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition does not include the evidence of the applicant's age.

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 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 3677 for action in its regular turn.

Tredelle D. Jackson
Paralegal Specialist
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. |
|---|---|---|---|---|
| 11/957,739 | 12/17/2007 | Jong-ho LEE | Q100930 | 9856 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| OMETZ, DAVID LOUIS | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/17/2007 INTEFSW 00007409 194080 11957739
02 FC:1111 510.00 CR
04 FC:1202 200.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**HONEYWELL INTERNATIONAL INC.**
**PATENT SERVICES**
**101 COLUMBIA ROAD**
**P.O. BOX 2245**
**MORRISTOWN NJ 07962-2245**

**MAILED**

APR 12 2010

**OFFICE OF PETITIONS**

In re Application of :
Ganesh G. BABU, et al :
Application No. 11/957,758 : DECISION ON PETITION
Filed: December 17, 2007 :
Attorney Docket No. H0016597-0561 (21664) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 20, 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 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3627 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 23 2009

OFFICE OF PETITIONS

**FRASER CLEMENS MARTIN & MILLER LLC**
**28366 KENSINGTON LANE**
**PERRYSBURG, OH 43551**

| | | |
|---|---|---|
| In re Application of | : | |
| John Pfanstiehl | : | DECISION ON PETITION |
| Application No. 11/957,760 | : | TO WITHDRAW |
| Filed: December 17, 2007 | : | FROM RECORD |
| Attorney Docket 1-39213 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 5, 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 J. Douglas Miller, on behalf of all practitioners of record who are associated with Customer Number 43935.

All attorneys/agents associated with the Customer Number 43935 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 September 21, 2009 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MR. JOHN PFANSTIEHL
448 HARBOR DR. S.
INDIAN ROCKS BEACH, FL 33785

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 |
|---|---|---|---|
| 11/957,760 | 12/17/2007 | John Pfanstiehl | |

**CONFIRMATION NO. 9886**

**POWER OF ATTORNEY NOTICE**

43935
FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

Date Mailed: 12/22/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,785 | 12/17/2007 | Seung-Gyun WOO | 21C-0455 | 9928 |

7590 07/14/2009

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER | |
|---|---|
| MERLIN, JESSICA M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2871 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 07/14/2009 | 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: 07/13/2009 NFARHER
12/18/2007 INTEFSW 00000315 061130 11957785
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,794 | 12/17/2007 | Jong-ho LEE | Q102815 | 9944 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| OMETZ, DAVID LOUIS | |
| **ART UNIT** | **PAPER NUMBER** |
| 2622 | |
| **MAIL DATE** | **DELIVERY MODE** |
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/18/2007 INTEFSW 00000408 194880 11957794
02 FC:1111 510.00 CR

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. |
|---|---|---|---|---|
| 11/957,818 | 12/17/2007 | Duk-Soo Kim | 319745US0 | 9997 |

7590 02/19/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| REDDY, SATHAVARAM I | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1794 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/19/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
02/19/2009 0030066842

Credit Card Refund Total: $440.00

Am Exp..: XXXXXXXXXXX1002

Adjustment date: 02/19/2009 NFARMER
12/18/2007 INTEFSW 00000734 11957818
02 FC:2111 -255.00 OP
04 FC:2203 -185.00 OP

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. |
|---|---|---|---|---|
| 11/957,823 | 12/17/2007 | Jong-ho LEE | Q102814 | 1006 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| OMETZ, DAVID LOUIS | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/18/2007 INTEFSW 00000788 194880 11957823
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

JAN 20 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Blott, Hartwell, Nicolini, | : | |
| Green, Martin, Greener and Lee-Webb | : | |
| Application No. 11/957,860 | : | DECISION NOTING JOINDER AND |
| Filed: December 17, 2007 | : | DISMISSING PETITION |
| Attorney Docket No. SMNPH.007C1 | : | PURSUANT TO |
| Title: WOUND CLEANSING APPARATUS WITH STRESS | : | 37 C.F.R. § 1.47(A) AS MOOT |

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on August 14, 2008.

On December 17, 2007, the application was filed, identifying Messrs. Blott, Hartwell, Nicolini, Greener and Lee-Webb, along with Mses. Green and Martin as joint inventors. No oath or declaration was included on filing, and as such, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed on February 25, 2009, 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.

On August 14, 2008, this petition was fled along with, *inter alia*, the petition fee, a declaration that has been executed by each of the joint inventors save Mr. Lee-Webb and the surcharge that is associated with the late submission of the same, a declaration of facts, the last-known address of the non-signing inventor, and a five-month extension of time, so as to make timely this response.

On December 16, 2008, Petitioner submitted a declaration that has been executed by previously non-signing joint inventor Lee-Webb.

As such, this petition is **DISMISSED AS MOOT.**

In view of the joinder of the joint inventor, further

consideration under 37 C.F.R. § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 C.F.R. § 1.47(a).

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL A. RAHMAN
GARDERE WYNNE SEWELL LLP
SUITE 3000
1601 ELM STREET
DALLAS TX 75201-4761

COPY MAILED

OCT 07 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kevin McCreary | : | DECISION ON PETITION |
| Application No. 11/957,869 | : | TO WITHDRAW |
| Filed: December 17, 2007 | : | FROM RECORD |
| Attorney Docket No. 132695-1001 | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 7, 2009.

The request is **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 Chris P. Perque on behalf of all attorneys of record, but does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Chris P. Perque
1000 Louisiana, Suite 3400
Houston TX 77044

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MICHAEL A. RAHMAN**
**GARDERE WYNNE SEWELL LLP**
**1601 ELM STREET, SUITE 3000**
**DALLAS TX 75201-4761**

MAILED

NOV 0 3 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kevin McCreary | : | DECISION ON PETITION |
| Application No. 11/957,869 | : | TO WITHDRAW |
| Filed: December 17, 2007 | : | FROM RECORD |
| Attorney Docket No. 132695-1001 | : | |

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 14, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Chris P. Perque on behalf of all attorneys of record who are associated with Customer No. 32914.

All attorneys/agents associated with Customer Number 32914 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
Petitions Examiner
Office of Petitions

cc: Kevin McCreary
8100 Washington Ave., Suite 110
Houston TX 77007

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARMAN – BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 09 2009

OFFICE OF PETITIONS

In re Application of :
Andreas LOW, et al :
Application No. 11/957,883 : DECISION ON PETITION
Filed: December 17, 2007 : TO WITHDRAW
Attorney Docket No. 11336/1784 (P07014US) : 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

**MARSHALL, GERSTEIN & BORUN LLP**
**6300 SEARS TOWER**
**233 SOUTH WACKER DRIVE**
**CHICAGO, IL 60606-6357**

COPY MAILED

JAN 29 2010

In re Application of :
**Kyong Bong ROUH**, et *al.* :
Application No. 11/957,914 : DECISION GRANTING PETITION
Filed: December 17, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **29925/43374** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 28, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on January 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/957,919 | 12/17/2007 | Gordon C. Cooper | P68.2-10619-US02 | 1192 |

490 7590 12/22/2008

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 3627 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/22/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 22 2008

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400
6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

| | | |
|---|---|---|
| In re Application of: | : | DECISION ON REQUEST TO |
| Cooper, Gordon, et al. | : | PARTICIPATE IN PATENT |
| Application No.: 11/957,919 | : | PROSECUTION HIGHWAY PILOT |
| Filed: December 17, 2007 | : | PROGRAM AND PETITION TO |
| Attorney Docket: P68.2-10619-US02 | : | MAKE SPECIAL UNDER 37 CFR |
| For: Billing System and Method for | : | 1.102(d) |
| Determining Transportation | : | |
| Charges for Packages | : | |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed November 4, 2008 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the CIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the CIPO 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 CIPO 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 CIPO application(s) containing the allowable/patentable claim(s);
(6) Applicant must submit an IDS listing the documents cited by the CIPO examiner in the CIPO 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 comply with the above requirements. Therefore, the above-identified application has been accorded "special" status and is being forwarded to the examiner for action on the merits commensurate with this decision

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Robert Weinhardt
TC3600
Business Practice Specialist

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

CONNOLLY BOVE
LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

**COPY MAILED**

SEP 23 2008

**OFFICE OF PETITIONS**

In re Application of :
Lu :
Application No. 11/957,942 : DECISION
Filed/Deposited: 17 December, 2007 :
Attorney Docket No. 20140-00321-US2 :

This is a decision on the petition filed 5 March, 2008, seeking to have accorded a filing date of 17 December, 2007, for the above-identified application based upon a showing that the omitted drawings/figures were present in the prior-filed co-pending provisional application to which this application claimed benefit (under 37 C.F.R. §1.78) on filing.

For the reasons stated herein, the petition is **GRANTED**.

Application papers in the above-identified application were deposited on 17 December, 2007.

On 15 January, 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 5 March, 2008, Petitioner filed, *inter alia*, the instant petition with fee and FIG. 1, averred to be a copy from the parent of the previously omitted drawing FIG. 1, averred to have been present upon deposit of the parent/previously-filed Nonprovisional Application No. 10/978,444 (filed on 2 November, 2004, though Petitioner chose not to include the filing date information in his petition), to which application a priority claim was made in the instant application.

Petitioner asserts that the drawings/figures were inadvertently omitted from the instant application; and points to the prior filed Application No. 10/978,444 (filed on 2 November,

2004), and to the claim for priority thereto made in the specification of the instant application, and now seeks to obtain an incorporation by reference herein under the provisions of 37 C.F.R. §1.57(a).

Petitioner does not appear 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.

As stated in MPEP §601.01(g) under the section entitled, "Application Entitled to a Filing Date," applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 C.F.R. §1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 C.F.R. §1.55 for priority of a prior-filed foreign application, or a claim under 37 C.F.R. §1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

Please note that no petition is required and that the amendment must comply with 37 C.F.R. §1.57(b) and 37 C.F.R. §1.121. (*See*: MPEP §201.06(c)(IV).) Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

To the extent the instant petition requests a filing date of 17 December, 2007, with no drawings present in the application, the petition is **GRANTED**.

The Petition fee is waived and is refunded via Deposit Account 22-0185. 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 17 December, 2007**;
- **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **issuance of a filing receipt.**

Entry of the amendment filed on 31 March, 2008, will be determined by the Examiner.

Telephone inquiries concerning this matter should be directed to John J Gilllon, Jr., attorney, at (571) 272-3214.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Norbert HUBER | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7586352 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/957,945 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/17/2007 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **108** 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. |
|---|---|---|---|---|
| 11/957,968 | 12/17/2007 | Jong-ho LEE | Q100931 | 1266 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| OMETZ, DAVID LOUIS | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/18/2007 INTEFSW 00001870 194880 11957968
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,008 | 12/17/2007 | Ikuko Iida | 008312-0366875 | 1343 |

7590 03/06/2009

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

| EXAMINER | |
|---|---|
| BRAGDON, REGINALD GLENWOOD | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2189 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/06/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 03/10/2009 BPOWELL
12/18/2007 INTEFSW 00002270 033975 11958008
02 FC:1111 510.00 CR

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,026 | 12/17/2007 | Jong-ho LEE | Q100932 | 1374 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| OMETZ, DAVID LOUIS | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/18/2007 INTEFSW 00002359 194880 11958026
02 FC:1111 510.00 CR

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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SEP 15 2008

In re Application of
Greenblat et al.
Application No. 11/958,053
Filed: December 17, 2007
Attorney Docket No. IR-3398(2-6370)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 18, 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. Applicant lacks items (1) and (2) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that inventor Helzer refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). If the joint inventors were not presented with a copy of the application papers for this application, then the joint inventors could not attest that they have "reviewed and understand the application papers" and could not execute the declaration they were requested to sign. Petitioner has failed to present evidence that inventor Helzer ever received the application papers.

Inventor Greenblat further states inventor Helzer has refused to sign the declaration. However, no evidence has been provided to establish Helzer's refusal. 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.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63. Rule 47 applicant failed to provide the citizenship pursuant to 37 CFR 1.63 (a)(3). Specifically, petitioner failed to provide the citizenship of inventor Helzer. A newly executed declaration is required. Providing the citizenship of inventor Helzer in the Application Data Sheet is not sufficient.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petition 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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JUN 0 8 2009

**OFFICE OF PETITIONS**

In re Application of
Greenblat et al.
Application No. 11/958,053
Filed: December 17, 2007
Attorney Docket No. IR-3398(2-6370)

DECISION ON PETITONS

This is in response to the petitions filed under 37 CFR 1.137(b) and 37 CFR 1.47(a), filed April 20, 2009.

The petitions are **DISMISSED**.

**PETITION UNDER 37 CFR 1.47**

The petition under 37 CFR 1.47 is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that inventor Helzer refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). If the joint inventors were not presented with a copy of the application papers for this application, then the joint inventors could not attest that they have "reviewed and understand the application papers" and could not execute the declaration they were requested to sign. Petitioner has failed to present evidence that inventor Helzer ever received the application papers.

On renewed petition, petitioner has provided a copy of e-mail correspondence from inventor Greenblat. However, insufficient evidence has been provided to establish Helzer's refusal. When and in what manner were the application papers (specification, claims, drawings and oath or declaration) presented to inventor Helzer. When and how did inventor Helzer tell inventor

Greenblat that he did not want to be bothered. **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.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63. Rule 47 applicant failed to provide the citizenship pursuant to 37 CFR 1.63 (a)(3). Specifically, petitioner failed to provide the citizenship of inventor Helzer.

**PETITION UNDER 37 CFR 1.137(b)**

The petition filed under 37 CFR 1.137(b) is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

As to item (1), the reply in this instance is a grantable petition under 37 CFR 1.47 or a complete joinder. Since the petition under 1.47 or a joinder cannot be granted at this point, the petition under 37 CFR 1.137(b) cannot be granted.

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.

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 $2350.00 extension of time fee submitted with the petition on April 20, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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. |
|---|---|---|---|---|
| 11/958,065 | 12/17/2007 | Keiichi Teramoto | 430.0048USU | 1451 |

7590 10/08/2009

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

| EXAMINER | |
|---|---|
| KOENIG, ANDREW Y | |
| ART UNIT | PAPER NUMBER |
| 2423 | |
| MAIL DATE | DELIVERY MODE |
| 10/08/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 10/08/2009 NFARMER
12/18/2007 INTEFSW 00002638 010467 11958065
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of.
Quin-Yi Tong
Application No.: 11/958,071
Filed: December 17, 2007
Attorney Docket No: 319138US20CONT

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**INTEL CORPORATION**
**C/O CPA GLOBAL**
**P.O. BOX 52050**
**MINNEAPOLIS MN 55402**

**COPY MAILED**

MAY 0 1 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Stillwell, Paul M. Jr. | : | |
| Application No. 11/958,080 | : | ON PETITION |
| Filed: December 17, 2007 | : | |
| Attorney Docket No. P26665 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 3, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 18, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 2008. A Notice of Abandonment was mailed on February 3, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The instant petition lacks item(s) (1). The Office acknowledges receipt of the Oath/Declaration and the $130.00 late surcharge. However, the Notice also required submission of Replacement Drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). In order to fully comply with 37 CFR 1.137(b) for revival of the instant application, the drawings must be submitted.

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

---

[2] See MPEP 711.03(c)(III)(C) and (D).

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**P.O. BOX 52050**
**MINNEAPOLIS MN 55402**

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MAY 0 1 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Stillwell, Paul M. Jr. | : | |
| Application No. 11/958,080 | : | ON PETITION |
| Filed: December 17, 2007 | : | |
| Attorney Docket No. P26665 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 3, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 18, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 2008. A Notice of Abandonment was mailed on February 3, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The instant petition lacks item(s) (1). The Office acknowledges receipt of the Oath/Declaration and the $130.00 late surcharge. However, the Notice also required submission of Replacement Drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). In order to fully comply with 37 CFR 1.137(b) for revival of the instant application, the drawings must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

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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

---

[2] See MPEP 711.03(c)(III)(C) and (D).

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**P.O. BOX 52050**
**MINNEAPOLIS MN 55402**

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DEC 0 3 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Stillwell, Paul M. Jr. | : | |
| Application No. 11/958,080 | : | ON PETITION |
| Filed: December 17, 2007 | : | |
| Attorney Docket No. P26665 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 2, 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 the Replacement Drawings 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 process. Thereafter, the application will be referred to Technology Center AU 2111 for examination on the merits.

Liana Walsh
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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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,137 | 12/17/2007 | Naomasa Nakamura | 319774US2S | 1573 |

7590 03/24/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

| EXAMINER | |
|---|---|
| NGUYEN, HOA T | |
| **ART UNIT** | **PAPER NUMBER** |
| 2627 | |
| **NOTIFICATION DATE** | **DELIVERY MODE** |
| 03/24/2009 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 03/23/2009 BPOWELL
12/18/2007 INTEFSW 00003142 11958137
02 FC:1111 -510.00 OP

Adjustment date: 03/23/2009 BPOWELL
12/18/2007 INTEFSW 00003142 11958137
02 FC:1111 -510.00 OP

Refund Ref:
03/23/2009 0030067986

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Credit Card Refund Total: $510.00

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P.O. Box 1450
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**ISIS PHARMACEUTICALS INC**
**1896 RUTHERFORD RD.**
**CARLSBAD CA 92008**

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NOV 0 3 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Vasulinga Ravikumar, et al. | : | |
| Application No. 11/958,148 | : | DECISION GRANTING PETITION |
| Filed: December 17, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. DVCM0016US.C1 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 2, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on June 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed .

Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,152 | 12/17/2007 | Jong-ho Lee | Q100933 | 1597 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| OMETZ, DAVID LOUIS | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2622 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nomi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/18/2007 INTEFSW 00003200 194880 11958152
02 FC:1111 510.00 CR

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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**Hayes Soloway P.C.**
**3450 E. Sunrise Drive**
**Suite 140**
**Tucson AZ 85718**

MAILED

JAN 27 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Julio A. Navarro, et al. | : | |
| Application No. 11/958,177 | : | DECISION GRANTING PETITION |
| Filed: December 17, 2007 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. BOEING 07-0312 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 26, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on January 13, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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. |
|---|---|---|---|---|
| 11/958,206 | 12/17/2007 | Jong-ho LEE | Q102818 | 1713 |

7590 02/20/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER | |
|---|---|
| HJERPE, RICHARD A | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2629 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2009 | PAPER |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 02/20/2009 NFARMER
12/18/2007 INTEFSW 00003684 194880 11958206
02 FC:1111 510.00 CR
04 FC:1201 210.00 CR

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CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

FEB 29 2008

In re Application of: Vincent, Brandon T et al.
Application No.: 11/958,234
Filed: December 17, 2007
Title: GOLF CLUB HEAD WITH HIGH MOMENT OF INERTIA

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 December 17, 2007 on to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 U.S.C. 103(c).

## REVIEW OF FACTS

The conditions I: 1-4, II: 1-5, 5.1, 5.2, 5.3, 6, 6.1, 6.2, 6.4 and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 6.3, and 6.5 above.

Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

**Discussion**

When referring to "the petition" herein below, the received papers under consideration include the four page PTO/SB/28 form "Petition to Make Special Under Accelerated Examination Program", the "pre-examination search document" including pages 1-4; the "accelerated examination support document" comprising pages 1-14, and an Information Disclosure Statement including form PTO/SB/08A(substitute PTO-1449 A).

With regard to the requirements of section II elements 5.1 and 5.2, it is observed that while the search appears to be reasonable, all the patents cited are assigned to the assignee of the present application. This raises a concern that the search of foreign data bases and non-patent literature (NPL) may not be adequate enough.

With respect to the requirements of section II element 6.3 outlined above, the petition fails to provide a detailed explanation of how the claim is patentable over (each of) the reference(s) with particularity required by 37 CFR 1.111(b) and (c). Petitioners should be specific in their explanation and include the identification of specific claim limitations that support their position, where appropriate. Petitioners must distinguish the claim from each piece of prior art cited. General statements that the claim is neither anticipated nor rendered obvious by the cited references or that the references are not properly combinable will not be acceptable. The Office cannot infer or guess what petitioner believes the differences between the claim and the teachings of the prior art to be. Petitioner's statements must also be consistent and must be related to the claim language. In the instant petition, Applicant gave a broad and all-encompassing statement as to why the single claim in the instant application is not anticipated by the most closely related prior art references cited (see pp. 8-9 of the Examination Support Document). For these reasons, the petition does not meet the requirement of section II, element 6.3. The requirement of section II element 6.3 can be satisfied by listing the presently filed claim (i.e., the claim of the instant application) and by indicating which specific limitation(s) in said presently filed claim define(s) over each one of the most closely related references that has been cited. This patentability showing should be performed individually, with regard to each one of the most closely related prior art that has been cited, one reference at a time. The patentability analysis related to 35 U.S.C. 103(a) is accepted.

Regarding the requirements of section II element 6.5 outlined above, the requirements of this section are not met. A grantable petition requires petitioner to provide a showing of where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in the written description of the specification. The instant petition identifies at times figures and portions of text with respect to bundled limitations as opposed to the required individual claim limitations. For example, the following mapping appears on pp. 13-14: *"With respect to claim 1, a golf club head that is partitioned into a first section, a second section and a third section, with the first section extending rearward from the front wall 20% of the length of the golf club head, the third section extending forward from the rear wall 20% of the length of the golf club head as*

*measured from the front wall to the rear wall, and the second section positioned between the first section and the third section, wherein the first section has at least 60% of the golf club head is described at least at paragraphs [0006], [0038] and [0039], and FIGS. 5-8 of the present application,".* This mapping lacks specificity, because the combination of paragraphs 6, 38, and 39 extend over at least 2 pages. The requirement of section II element 6.5 can be satisfied by listing the presently filed claim and by indicating where the instant application teaches each limitation in each one of said presently filed claim, by indicating the element number and/or the relevant page and line numbers.

DECISION

For the above-stated reasons, the petition is **dismissed**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address all of the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Programs Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at 571 272-1170.

Ehud Gartenberg
Special Programs Examiner
Technology Center 3700

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CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

APR 03 2008

In re Application of: Vincent, Brandon, T., et al.
Application No.: 11/958,234
Filed: December 17, 2007
Title: GOLF CLUB HEAD WITH HIGH MOMENT OF INERTIA

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 regarding this decision should be directed to Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, an inquiry can be directed to Colleen P. Cooke, Special Program Examiner, at (571) 272-1170.

Ehud Gartenberg

Ehud Gartenberg, Special Programs Examiner
Technology Center 3700

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**THOMPSON HINE L.L.P.**
**INTELLECTUAL PROPERTY GROUP**
**P.O. BOX 8801**
**DAYTON OH 45401-8801**

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of :
Harvey Leach :
Application No.11/958,341 : DECISION ON PETITION
Filed: December 17, 2007 :
Attorney Docket No. 074998-00101 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees, replacement drawings and declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed January 14, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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**INTELLECTUAL PROPERTY GROUP**
**P.O. BOX 8801**
**DAYTON OH 45401-8801**

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of :
Harvey Leach :
Application No.11/958,344 : DECISION ON PETITION
Filed: December 17, 2007 :
Attorney Docket No. 074998-00008 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees, replacement drawings and declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed January 14, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Patent Application Processing for pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 8801
DAYTON, OH 45401-8801

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Harvey Leach :
Application No. 11/958,347 : ON PETITION
Filed: December 17, 2007 :
Attorney Docket No. 074998-00006 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 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 Notice To File Missing Parts of Nonprovisional Application (Notice) mailed January 15, 2008. 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 above-identified application became abandoned on March 16, 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.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal
Thompson Hine LLP
335 Madison Avenue
New York, NY 10017-4611

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 09 2010

OFFICE OF PETITIONS

In re Application of :
You Sung Kim :
Application No.: 11/958,377 : ON PETITION
Filed: December 17, 2007 :
Attorney Docket No.: 00939C-116000US :

This is a decision on the petition, filed July 8, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on June 8, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2827 for further processing of the Request for Continued Examination (RCE) 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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**DAVID KIEWIT**
**5901 THIRD ST SOUTH**
**ST PETERSBURG FL 33705**

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MAR 03 2008

In re Application of :
Murray F. Feller :
Application No. 11/958,403 : DECISION ON PETITION
Filed: December 18, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. FCM : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 18, 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 2855 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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**Leigh Hunt Firestone**
**7100 Norfolk Road**
**Berkeley, CA 94705**

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NOV 2 4 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Robert G. Matheny | : | |
| Application No. 11/958,405 | : | DECISION ON PETITION |
| Filed: December 18, 2007 | : | TO WITHDRAW |
| Attorney Docket No. CMCV-002 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 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 Leigh H. Firestone on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Robert G. Matheny at the address indicated below.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert G. Matheny**
**4370 River Bottom Drive**
**Norcross, GA 30092**

cc: **Robert G. Matheny c/o**
**Blane H. Crutchfield, Hand Arendall**
**RSA Tower, 11 North Water Street**
**Suite 30200**
**Mobile, Alabama 36602**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/958,405 | 12/18/2007 | Robert G. Matheny | CMCV-002 |

**CONFIRMATION NO. 1073**

**POWER OF ATTORNEY NOTICE**

36996
LEIGH HUNT FIRESTONE
7100 NORFOLK ROAD
BERKELEY, CA 94705

Date Mailed: 11/21/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**LEIGH HUNT FIRESTONE**
**7100 NORFOLK ROAD**
**BERKELEY, CA 94705**

**COPY MAILED**

APR 1 0 2009

**OFFICE OF PETITIONS**

In re Application of :
**MATHENY**, Robert G. :
Application No. 11/958,407 : DECISION ON PETITION
Filed: December 18, 2007 : TO WITHDRAW
Attorney Docket No. **03354.0010U1** : 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 24, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to LEIGH HUNT FIRESTONE has been revoked by the assignee of the patent application on December 18, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BALLARD SPAHR ANDREWS & INGERSOLL, LLP**
**SUITE 1000**
**999 PEACHTREE STREET**
**ATLANTA GA 30309-3915**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,415 | 12/18/2007 | Fumiko Satoh | JP920070058US1 | 1090 |

48915 7590 02/26/2008

CANTOR COLBURN LLP-IBM YORKTOWN
20 Church Street
22nd Floor
Hartford, CT 06103

| EXAMINER | |
|---|---|
| MOFIZ, APU M | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2161 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/26/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Greg O'Bradovich
CANTOR COLBURN, LLP
IBM YORKTOWN
20 Church Street, 22nd Floor
Hartford, CT 06103

In re Application of:
Fumiko SATOH, et al
Serial No.: 11/958,415
Filed: December 18, 2007
Attorney Docket: JP920070058US1
Title: SYSTEMS, METHODS AND COMPUTER PRODUCTS FOR INFORMATION SHARING USING PERSONALIZED INDEX CACHING

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 18, 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.5.2 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 to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document only identifies figure 1 and paragraphs [0024]-[0026] as providing support for claim 1 and identifies figure 4 and paragraphs [0037]-[0039] as providing support for claims 2 and 3. However, the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above clearly states that the petitioner is required to **specifically identify what corresponding elements in the figure(s)** and **specifically identify where the corresponding support in the cited portions of the instant specification** can find support under 35 U.S.C. § 112, first paragraph **for each limitation of the claims 1-3**. Thus, a general statement that all limitations of claim(s) can be found in certain figure(s) and/or paragraphs 1-5, for example, cannot be accepted to satisfy such a requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above. A clarification and identification of support is required.

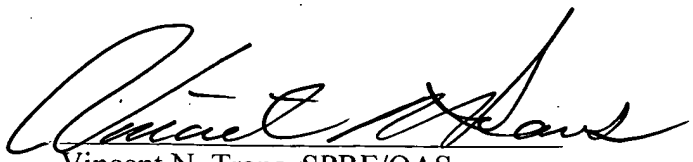
## DECISION

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.



Vincent N. Trans, SPRE/QAS
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. |
|---|---|---|---|---|
| 11/958,415 | 12/18/2007 | Fumiko Satoh | JP920070058US1 | 1090 |

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| EXAMINER | |
|---|---|
| MOFIZ, APU M | |
| 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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Greg O'Bradovich
CANTOR COLBURN LLP
IBM YORKTOWN
20 Church Street, 22nd Floor
Hartford, CT 06103

In re Application of:
Fumiko SATOH, et al.
Serial No.: 11/958,415
Filed: December 18, 2007
Title: SYSTEMS, METHODS AND COMPUTER PRODUCTS FOR INFORMATION SHARING USING PERSONLIZED INDEX CACHING

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 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.

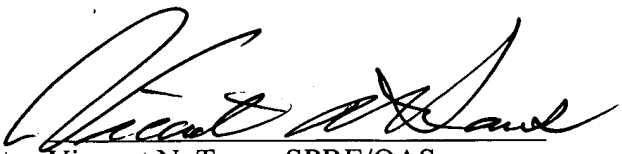
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 10-22-09

**TO SPE OF** : ART UNIT 2828

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11/958456 Patent No.: 7586971

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**

A. Green

**Angela Green 703-756-1541**
**Certificates of Correction Branch**
**703-756-1814**

**Thank You For Your Assistance**

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**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

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MINSUN OH HARVEY
PRIMARY EXAMINER

**SPE** 2828 **Art Unit**

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03/13/2008

Greg O'Bradovich
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

MAILED

MAR 14 2008

Technology Center 2100

In re Application of:
Hirofumi Kimura, et al.
Serial No.: 11/958,475
Filed: December 18, 2007
Docket: JP920070095US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR OPERATION HISTORY MANAGEMENT FOR HPC PROGRAMS OPTIMIZATION

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 18, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions I.1–I.4, II.1–II.4, II.5.1-II5.3, II.6.1-II.6.4, and II.6.6 above are met. However, the petition fails to comply with condition II.6.5 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document must 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. Section 9(E) fails to provide such a showing. Instead a general allegation that support is shown in Figure 2 and its corresponding description is provided.

## 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 Gail Hayes, Quality Assurance Specialist, at (571) 272-3591. If attempts to reach the undersigned are unsuccessful, Vincent Trans, Quality Assurance Specialist, can be reached at (571)272-3613.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,475 | 12/18/2007 | Hirofumi Kimura | JP920070095US1 | 1177 |

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22nd Floor
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| EXAMINER | |
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**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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06/23/2008

Greg O'Bradovich
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103

In re Application of:
Hirofumi Kimura, et al.
Serial No.: 11/958,475
Filed: December 18, 2007
Docket: JP920070095US1
Title: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR OPERATION HISTORY MANAGEMENT FOR HPC PROGRAMS OPTIMIZATION

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on April 14, 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**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions I1-I4, II1-II4, II5.1-II5.3, and II.6.1-II6.6 above are met. Therefore, the petition meets the required conditions to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

## DECISION

For the above-stated reasons, the petition 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 Gail Hayes, Quality Assurance Specialist, at (571) 272-3591.

/Gail Hayes/

Gail Hayes, Quality Assurance Specialist
Technology Center 2100

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,555 | 12/18/2007 | Phil A. Berlin | 100743.0001US4 | 1299 |

24392 7590 03/26/2008

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| EXAMINER | |
|---|---|
| ART UNIT | PAPER NUMBER |
| 3625 | |

| MAIL DATE | DELIVERY MODE |
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| 03/26/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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MAR 25 2008

TECHNOLOGY CENTER 3600

FISH & ASSOCIATES, PC
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Irvine CA 92614-6232

In re application of : **DECISION ON PETITION**
Berlin et al. : **TO MAKE SPECIAL FOR**
Application No. 11/958,555 : **NEW APPLICATION**
Filed: December 18, 2007 : **UNDER 37 CFR 1.102**
For: CENTRALIZED ELECTRONIC SALES USING A CONSOLIDATOR

This is a decision on the petition filed on December 18, 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:

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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;

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An accelerated examination support document must include:

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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, and II.6.3.

As per Condition II.5, it is required that Applicant's search include an identification of the field of search by United States class and subclass and the date of the search. On page 1 of Applicant's Pre-Examination Search Document, Applicant lists the most relevant classes, but admits that the "searches not limited to classes." Applicant is responsible for performing a class search of at least the class/subclass is which the application is best classified. The date of classification search should be indicated as well. The claimed invention is classified in 705/26.

Regarding Condition II.5.1, it is required that Applicant's search 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. 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 705/26. Looking toward the available search templates and recommended areas of search for class 705/26 (see http://www.uspto.gov/web/patents/searchtemplates/class705-026.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 705/26 search template web page as well. Especially relevant to the claimed subject matter are database files such as:

**ABI/INFORM**
**Business & IndustryTM (B&I)**
**Business Wire**
**EBSCOhost Research Databases**
**Gale Group Computer DatabaseTM**
**Gale Group Magazine DatabaseTM**
**Gale Group Marketing & Advertising Reference Service**
**Gale Group New Product Announcements/Plus (NPA/Plus)**
**Gale Group Newsletter DatabaseTM**
**Gale Group PROMT**
**Gale Group Trade & Industry DatabaseTM**
**Inside Conferences**
**Inspec (The Database for Physics, Electronics and Computing)**
**Internet and Personal Computing Abstracts**
**Journal of Commerce**

**PR Newswire**
**ProQuest Direct**
**TecInfoSource (formerly SoftBase: Reviews, Companies, and Products)**

While it is noted that Applicant has performed a search on the Internet, Applicant is reminded that the Internet search does not qualify as the sole non-patent literature search required. As a matter of fact, the search template recommendations for 705/26 state, "An Internet search should be considered when a search of the resources listed above fails to locate relevant prior art. A preliminary Internet search may be performed to obtain an overview of the technology, and to identify additional search terms and related product information." Therefore, a non-patent literature search covering the aforementioned database files (or files with similar subject matter coverage) should be performed in addition to the Internet search.

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. Applicant's searches do not incorporate synonyms for the searched terms; therefore, the search queries are deemed to be overly narrow in relation to the scope of the claimed invention. For example, synonyms and truncation operators for the searched "consolidator" should be used. Some synonyms and truncation operators might include consolidat$4, aggregat$4, conglomerat$4, broker$3, and pool$3 (shown using EAST syntax). The concept of a "vendor" should also be searched as vendor$1, merchant$1, supplier$1, provider$1, and seller$1. "Customer" and "consumer" could also be searched as customer$1, consumer$1, buyer$1, patron$1, purchaser$1, etc. Furthermore, Applicant's searched terms, such as "electronic commerce" and ecommerce, are too limiting and will fail to retrieve many relevant hits. Generally class 705 (as well as other classes) deals with electronic commerce and ecommerce applications; however, these terms are not explicitly used in many of the references in class 705. Since all of the references in class 705 are generally related to electronic commerce and ecommerce, limiting a query to include either of these terms would eliminate relevant references that fail to expressly used these terms (while performing a specific application of ecommerce). The search term "plurality" should also be queried with other synonyms, including many, several, more than one, pool$3, aggregat$4, and conglomerat$4. The terms "web site*" and "website*" should be searched with synonyms, such as ((web or Internet) ADJ (page$1 or site$1)), URL, www, etc. The concept of the commission recited in independent claims 1 and 9 is not searched at all; therefore, this concept needs to be searched. The Applicant emphasizes the claimed details of the commission as contributing to the patentability of the claimed invention; therefore, it is especially crucial that the commission concept be thoroughly searched in order to more confidently make a patentability determination.

Under Condition II.5.2, Applicant is also required to search the limitations in the dependent claims. The following limitations are not reflected in the search queries:

[Claim 2] further comprising the consolidator providing a subset of the consolidated product information in a standard format to a third party; and receiving a compensation from the third party, wherein the third party operates a second web site that competes with the consolidator's web site.

[Claim 3] wherein the consolidated product information provided to the third party includes product data from at least 100 of the plurality of vendors.

[Claim 4] providing technology to the third party to host the second web site.

[Claim 5] wherein the step of taking the order for the desired product comprises obtaining from the ordering consumer: a name and address; a stock keepers unit (SKU); and an identification of the selected vendor.

[Claim 6] the consolidator informing the vendor to ship the product to the ordering consumers.

[Claim 7] wherein the compensation comprises a percentage of the third party's revenues.

[Claim 8] the consolidator collecting the revenue from the ordering consumers, and distributing at least a portion of the revenue to the vendor.

[Claim 10] wherein the web site is further programmed to provide contact information to an entity that sells a subset of the consolidated product information to a third party to operate a competing web site.

[Claim 11] the web site programmed to collect a revenue from the ordering consumer, and distribute at least a portion of the revenue to the selected vendor.

A recommended search might be executed in all databases of East with the following search queries:

L1: (consolidat$4 or aggregat$4 or conglomerat$4 or broker$3 or pool$3) SAME (commission$1 or bonus$2 or incentive$1 or incentivi$5 or fee or fees)

L2: (forward$3 or pass$3 or distribut$5 or transmit$4 or transmission$1 or relay$3) NEAR5 (order$3 or request$3 or material$1 or desir$3 or product$1 or part or parts) NEAR5 (vendor$1 or merchant$1 or supplier$1 or provider$1 or seller$1)

L3: L1 AND L2

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.

Condition II.6.3 requires 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). On pages 25-26 of the Accelerated Examination Support Document, in regard to independent claims 1 and 9, Applicant asserts, "Wherever the consolidator takes the order in the prior art, there is no commission. There is prior art in which the consolidator gets a commission, but in that case the vendor takes the order." Presumably, Applicant asserts these features to be patentable; however, it is not clear how they relate to the claimed invention. In other words, it is not evident to which limitation(s) of the independent claims Applicant is referring. Claims 1 and 9 recite that a commission associated with the order is received; however, the scope of this limitation is broader than the features asserted as patentable. Therefore, Applicant has not made the discussion of patentability specific to the invention, as claimed.

The petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

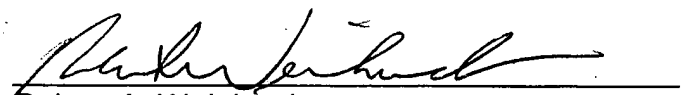
DECISION

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/3/19/08

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MAY 28 2008

TECHNOLOGY CENTER 3600

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
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Irvine CA 92614-6232

In re application of : **DECISION ON PETITION**
P. Berlin et al. : **TO MAKE SPECIAL FOR**
Application No. 11/958,555 : **NEW APPLICATION**
Filed: December 18, 2007 : **UNDER 37 CFR 1.102**
For: CENTRALIZED ELECTRONIC SALES USING A CONSOLIDATOR

This is a decision on the renewed petition filed on April 28, 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 December 18, 2007. That petition was dismissed in a decision mailed March 26, 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.

With the updated Support Document filed April 28, 2008, applicant has successfully remedied the issues raised in the dismissal with respect to the originally filed Support Document. However, with respect to the issues raised regarding the originally filed Search Document, these issues have not been sufficiently addressed by the updated Search Document filed April 28, 2008.

Specifically, the dismissal indicated that the search involve non-patent literature according to the search template of the area that the application is classified in unless 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 include such justification with this statement. The dismissal further indicated a subset of 18 relevant non-patent literature databases out of the more than 30 databases listed in this

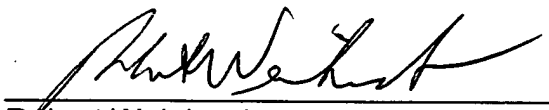
particular search template. Also, the dismissal indicated that the search queries need to include synonyms and search various claimed features not then reflected in the queries.

While the updated Search Document does provide new search logic with synonyms that include various claimed features and does include searches in a limited number of additional non-patent literature databases, the new search logic is applied to Delphion and Micropat patent document databases, not the non-patent literature databases. The searches in the non-patent literature databases provided in the updated Search Document employ search logic that show no synonym development and are missing several of the various claimed features identified in the dismissal. See searches 9-13 in the updated Search Document for example, including queries such as " sale purchase website" and "online product purchase vendor name". Further, although the updated Search Document does provide searches in a limited number of additional non-patent literature databases as mentioned, these additional databases do not include many of the relevant databases identified in the dismissal with respect to the search template. No justification is provided as to why these sources were eliminated.

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

RW5/21/08

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FEB 25 2010

OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of :
Bartusiak et al. :
Application No. 11/958,564 : DECISION ON PETITION
Filed: December 18, 2007 :
Attorney Docket Number: 63515US002 :

This is a decision on the petition, filed July 2, 2009 which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application. Petitioner has also contends extension of time fees were not required to make the reply timely.

The petition is **GRANTED to the extent indicated.**

This above-identified application was held abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application, which was mailed on January 16, 2008. The Notice to File Missing Parts set an extendable two (2) month period for reply.

Petitioner states that a timely reply was mailed via electronic filing on May 12, 2008, which included the following papers: signed declaration and authorization to charge $130.00 surcharge fee and $490.00 for the two-month extension of time fee. Petitioner states a review of the USPTO's PAIR system shows the reply to the Missing Parts was received on May 12, 2008.

Review of the file record shows the originally submitted reply sent on May 12, 2008 has been located. It is noted to make the reply to the Notice to File Missing Parts timely a two month extension of time was required. A general authorization was included on filing of the application. Accordingly, the two-month extension of time should have been charged to deposit account no. 13-3723.

Petitioner's argument that the two-month extension of time fee is not required has been considered but is not persuasive. Petitioner contends that a notification of the Notice was not received. Petitioner states that they participate in the e-Office action pilot program and they did not receive notification of the Missing Parts for the above-identified application. Petitioner has also provided a copy of the Private Pair Correspondence Notifications for January 16, 2008.

A review of the record shows that both the Notice to File Missing Parts and the filing receipt were uploaded into the system on January 15, 2008, petitioner was then notified on January 16, 2008. Thus both the filing receipt and the Notice of Missing Parts were available for review on January 16, 2008. Accordingly, the two-month extension of time fee is required and will not be refunded.

Accordingly, the holding of abandonment for failure to timely file a complete reply to the Notice to File Missing Parts of January 16, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,583 | 12/18/2007 | Timothy Alan Scavone | 10042RR2C | 1359 |

27752 7590 01/04/2008

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
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CINCINNATI, OH 45224

| EXAMINER | |
|---|---|
| DODSON, SHELLEY A | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1616 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/04/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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CINCINNATI OH 45224

| | |
|---|---|
| In re Application of | : |
| Timothy Alan Scavone et al | : DECISION ON PETITION TO MAKE |
| Serial No.: 11/958,583 | : SPECIAL FOR NEW APPLICATION |
| Filed: December 18, 2007 | : UNDER 37 C.F.R. § 1.102 & M.P.E.P. |
| Attorney Docket No.: 10042RR2C | : § 708.02 |

This is a decision on the petition filed December 18, 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 U.S.C. 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 U.S.C. 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 U.S.C. 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 U.S.C. 103(c).

## REVIEW OF FACTS

The conditions I.1- II.4 above are considered to have been met. However, the petition fails to comply with conditions II.5-6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirements of MPEP § 708.02, 5 and 6, applicants have not provided a Pre-examination Search Statement. Applicants have provided, however, two Pre-examination Support Documents, one of 60 pages in length, and one of 11 pages in length which appears to be a duplicate of the first 11 pages of the first document. It appears applicants meant to supply a search document of 11 pages in length and mistakenly used the first 11 pages of the support document.

In view of the above deficiency the search and the Pre-examination Search Document are considered to be missing and need to be submitted.

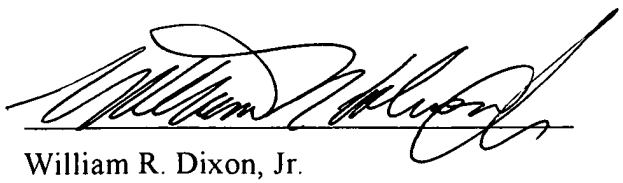
## DECISION

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 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. |
|---|---|---|---|---|
| 11/958,583 | 12/18/2007 | Timothy Alan Scavone | 10042RR2C | 1359 |

27752 7590 03/18/2008

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WINTON HILL BUSINESS CENTER - BOX 412
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| EXAMINER | |
|---|---|
| STAMBER, ERIC W | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3622 | |

| MAIL DATE | DELIVERY MODE |
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| 03/18/2008 | PAPER |

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| In re Application of | : |
| Timothy Alan Scavone et al | : DECISION ON PETITION TO MAKE |
| Serial No.: 11/958,583 | : SPECIAL FOR NEW APPLICATION |
| Filed: December 18, 2007 | : UNDER 37 C.F.R. § 1.102 & M.P.E.P. |
| Attorney Docket No.: 10042RR2C | : § 708.02 |

This is a decision on the renewed petition filed January 9, 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 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.

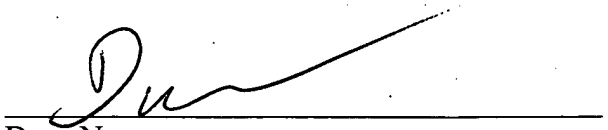
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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 Dave Nguyen, TCAED TC1600, at (571) 272-0731.



Dave Nguyen
TCAED
Technology Center 1600

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,624 | 12/18/2007 | MIKHAIL A. PAVLYUSHCHIK | 2402.0180000 | 1429 |

54089 7590 02/04/2008

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910 17TH STREET, N.W.
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WASHINGTON, DC 20006

| EXAMINER | |
|---|---|
| MOAZZAMI, NASSER G | |

| ART UNIT | PAPER NUMBER |
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| 2136 | |

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WASHINGTON, DC 20231
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George Bardmesser
Bardmesser Law Group, P.C.
910 17th Street, N.W.
Suite 800
Washington DC 20006

In re Application of:
Mikhail Pavlyushchik
Serial No.: 11/958,624
Filed: December 18, 2007
Docket: 2402.0180000
For: **METHOD AND SYSTEM FOR ANTIMALWARE SCANNING WITH VARIABLE SCAN SETTINGS**

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 18, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

## REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

## REVIEW OF FACTS

The conditions I 1-4, II 1-4 and II 5.1, 5.3, II and 6.1-6.6 above are considered to have been met. However, the petition fails to comply with condition 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 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, and does not appear to have given the claims the broadest reasonable interpretation.

Specifically, the text search strategy fails to be broad enough to cover the claims. 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. Below is a suggested search strategy to address the above deficiencies that can be modified to fit all of the previously used databases.

detect$ near execut$ same (malware mal-ware virus trojan worm) and (permit$ allow$) with execut$

known with unknown with file and (detect$ monitor$ determin$) with (virus malware mal-ware trojan worm)

Additionally, the search should include a review of the assignee's website which includes numerous PDF files with copyright dates early enough to be prior art that discuss malware detection systems. See for example [[http://dnl-pr1.kaspersky-labs.com/docs/english/ks1.0_securitysuiteen.pdf]] which discusses malware on at least page 4. The assignee website search must include at least these links.

[[http://dnl-pr1.kaspersky-labs.com/docs/english/kav5.0_personalen.pdf]]

[[http://dnl-pr1.kaspersky-labs.com/docs/english/]]

Finally, based upon the claimed subject matter of the instant application, a classified search separate search from the text search queries 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 726 (Information Security) subclass 24 (virus detection) for subject matter related to virus detection and Class 713 (Computer Support) Subclasses 154, 165, 167 and 187 for protection for program modification and address filtering with security utilities. The Pre Examination Search Document outlines a US field of search including all of class 713 and some subs in 724 followed by the same subclasses and classes incorporated into the text search queries. The above subclasses need to be searched without being modified by numerous text search terms. If each of these subclasses in both classes were separately searched from the text search queries then a clarifying statement would overcome the classified search strategy deficiencies. This additional search area was confirmed with an examiner in the pertinent art area.

[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 Tod Swann, Quality Assurance Specialist, at (571) 272-3612.

Tod R Swann
Quality Assurance Specialist
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Computer Security, Architecture and Software
571-272-3612

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. |
|---|---|---|---|---|
| 11/958,624 | 12/18/2007 | MIKHAIL A. PAVLYUSHCHIK | 2402.0180000 | 1429 |

54089 7590 03/27/2008

BARDMESSER LAW GROUP, P.C.
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WASHINGTON, DC 20006

| EXAMINER | |
|---|---|
| BARRON JR, GILBERTO | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2132 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 03/27/2008 | 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

George Bardmesser
Bardmesser Law Group, P.C.
910 17th Street, N.W.
Suite 800
Washington DC 20006

In re Application of:
Mikhail Pavlyushchik
Serial No.: 11/958,624
Filed: December 18, 2007
Docket: 2402.0180000
For: **METHOD AND SYSTEM FOR ANTIMALWARE SCANNING WITH VARIABLE SCAN SETTINGS**

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 February 19, 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 December 18, 2007 was dismissed in the decision mailed on February 4, 2004.

The petition to make the application special is GRANTED as the new Pre-Examination Search Document in conjunction with comments made during an interview and withdrawal of a required subclass meet the requirements of conditions II 5.2.

A March 26, 2008 a message was left with George Bardmesser with the following question was proposed. Is it correct to assume that the required search of the assignee's website mentioned in the dismissal decision failed to produce any documents that were more closely related to the claimed invention than have already been provided and discussed? The next day George Bardmesser left a message saying yes that was correct. The previous petition decision required that class 713 subclass 167 be search searched along with a number of other classes and subclasses. All of the required classes and subclasses mention in the decision with the exception of 713/167 were searched. This failure to search all of the required search areas would normally be a grounds for denial of the petition. However, in this case the search requirement of 713/167 has been withdrawn as not being required as upon reconsideration this subclass is not on point enough. Therefor, the new Examination Search Document fulfills the search requirements and is now proper.

The application is eligible for accelerated examination and the renewed 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) as the original identified deficiencies for failing to comply with the requirements for the pre-examination search encompassing all of the features of the claims, and giving the claims the broadest reasonable interpretation, the statement of patentability must provide a detailed explanation of how each of the claims are patentable and the concise statement of the utility must be of the invention as defined in each of the independent claims (reference must be made to independent claims 1, 14 and 20) have been corrected.

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 Tod Swann, Quality Assurance Specialist (QAS), at (571) 272-3612. A second point of contact is QAS Kim Huynh at (571)-272-4147

Tod R Swann
Quality Assurance Specialist
Technology Center 2100
Computer Security, Architecture and Software

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**MORRISVILLE NC 27560**

MAILED

JUN 15 2010

OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Makley et al. | : | |
| Application No. 11/958,648 | : | DECISION ON PETITION |
| Filed: December 18, 2007 | : | |
| Attorney Docket No. RPS920071058US1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 12, 2010, as required by the Notice of Allowance and Fee(s) Due mailed January 12, 2010. Accordingly, the date of abandonment of this application is April 13, 2010. A Notice of Abandonment was mailed April 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, the request for the change of correspondence address has been accepted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
www.uspto.gov

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Suite 300
Garden City, NY 11530

MAR 18 2008

In re Application of:
Tibor Bolom et al.
Serial No.: 11/958,691
Filed: December 18, 2007
Title: GAP FREE ANCHORED CONDUCTOR AND DIELECTRIC STRUCTURE AND METHOD FOR FABRICATION THEREOF

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 December 18, 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

The conditions of I. 1-3 and II. 1-4 and 6 above are considered to have been met. However, the petition fails to comply with the all the conditions set forth in I. 4 and II. 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 I. 4, the claims of the application must be directed to a single invention. Although the present application was only filed with 2 claims, each claim is directed to a patentably distinct invention. Claim 1 is directed to a microelectronic structure classified in 257/632 and Claim 2 is directed to a method for fabricating a microelectronic structure classified in 438/586. In the instant case, the apparatus of claim 1 could be formed by a materially different process than that of the sputtering of claim 2. For example, the apparatus of claim 1 could for formed just by chemical vapor deposition.

Regarding the requirements of II. 5, especially II. 5.2, the preexamination search must be directed to the claimed invention and encompass all of the features of the claims. In the instant case, only the method of claim 2 was apparently searched. There was no search for the apparatus of claim 1 in class 257.

## 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.

Petition 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
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400 Garden City Plaza
Suite 300
Garden City, NY 11530

JUN - 6 2008

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| In re Application of: | : | |
| Tibor Bolom et al. | : | DECISION ON PETITION TO |
| Serial No.: 11/958,691 | : | MAKE SPECIAL FOR NEW |
| Filed: December 18, 2007 | : | APPLICATION UNDER 37 |
| Title: GAP FREE ANCHORED CONDUCTOR | : | C.F.R. § 1.102 & M.P.E.P. § 708.2 |
| AND DIELECTRIC STRUCTURE AND | : | |
| METHOD FOR FABRICATION THEREOF | : | |

This is a decision on the renewed petition filed on April 8, 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,701 | 12/18/2007 | Robert P. Morris | 1480/US | 1566 |

49277 7590 07/16/2010

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CARY, NC 27518

| EXAMINER | |
|---|---|
| HERNDON, HEATHER R | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2176 | |

DATE MAILED: 07/16/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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Commissioner for Patents
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SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27518

In re Application of:
MORRIS, Robert et al.
Application No. 11/958,701
Filed: December 18, 2007
For: **METHODS AND SYSTEMS FOR GENERATING A MARKUP-LANGUAGE-BASED RESOURCE FROM A MEDIA SPREADSHEET**

**DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)**

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 13, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on January 13, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from January 13, 2010. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Eddie C. Lee whose telephone number is (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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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

**OFFICE OF PETITIONS**

In re Application of :
Yasushi Miyajima : DECISION ON PETITION
Application No. 11/958,702 :
Filed: December 18, 2007 :
Attorney Docket No. 09812.1145 :

This is a decision on the petition under 37 CFR 1.57(a), filed July 15, 2008, requesting that the above-referenced application be accorded a filing date of December 18, 2007 with a complete specification.

On December 18, 2007, applicants filed the above-identified application. On February 13, 2008, the Office of Initial Patent Examination mailed a Notice of Omitted Items which noted that while the application had been accorded a filing date of December 18, 2007, Pages 38, 39 and 41 of the specification appeared to have been omitted.

In response thereof, the instant petition and a complete specification, including Pages 38, 39 and 41 previously omitted from the original application papers filed December 18, 2007, were filed. Applicants acknowledge that Pages 38, 39 and 41 were inadvertently omitted and argue that the present application claims the benefit of prior-filed Japanese application 2006-354334 and that a proper priority claim was timely filed.

37 CFR 1.57(a) provides:

> [I]f all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim for priority or benefit shall be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawings. MPEP 201.17.

Therefore, if an application, as originally filed on or after September 21, 2004, does not include an explicit incorporation by reference statement in the specification, and is entitled to a filing date despite the inadvertent omission of a portion of the prior filed application(s), an applicant may be permitted to add the omitted material by filing an amendment under 37 CFR 1.57(a) within the time period set by the Office. See 37 CFR 1.57(a)(1) and MPEP 201.06(c)(IV).

A review of the record indicates that the above-identified application as originally filed on December 14, 2007 did in fact include an explicit incorporation by reference statement in the specification.

The inclusion of an incorporation by reference of the prior filed application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c). A review of the application-as-filed reveals that the specification, filed concurrently with the instant application, contained such a statement.

Obviously, in view of the incorporation by reference, Pages 38, 39 and 41 of the specification are not new matter if they were a part of the disclosure of the prior filed Japanese application.

Accordingly, the petition is **DISMISSED**.

The petition fee in the amount of $400.00 will be refunded to deposit account no. 06-0916.

This application is being forwarded to the Office of Patent Application Processing (OPAP) for further processing with a filing date of December 18, 2007, using the application papers received in the Office on that date and with an indication in Office records that Pages 38, 39 and 41 of the specification while not included with the application papers upon filing, were a part of the original disclosure.

Telephone inquiries concerning this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

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**WARD AND SMITH, P.A.**
**1001 COLLEGE COURT**
**P.O. BOX 867**
**NEW BERN NC 28563-0867**

**MAILED**

FEB 13 2009

**OFFICE OF PETITIONS**

In re Application of :
**BYERS,** Marcy E. et al. :
Application No. 11/958,704 : DECISION ON PETITION
Filed: December 18, 2007 : TO WITHDRAW
Attorney Docket No. **ROC920070494US1 (IBM 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 January 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Edward Mills on behalf of all attorneys of record who are associated with customer No. 74342. All attorneys/agents associated with the Customer Number 74342 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 Marcy Byers 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: **MARCY E. BYERS**
**5082 FOXFIELD DRIVE**
**ROCHESTER MN 55901**

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**TORYS LLP**
**79 WELLINGTON STREET WEST, SUITE 3000**
**BOX 270, TD CENTRE**
**TORONTO ON M5K 1N2 CA CANADA**

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AUG 2 9 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Marvin A. Heuer, et al. | : | |
| Application No. 11/958,777 | : | DECISION DISMISSING PETITION |
| Filed: December 18, 2007 | : | UNDER 37 CFR 1.313(a) |
| Attorney Docket No. 14333-2378 | : | |

This is a decision on the petition under 37 CFR 1.313(c) being treated as a petition under 37 CFR 1.313(a), filed August 26, 2008, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on July 10, 2008, with the issue fee being due on or before October 10, 2008. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Terri Williams at (571) 272-2991.

The matter is being referred to Technology Center AU 1621 for appropriate processing of the RCE filed August 26, 2008, and for consideration of the concurrently filed Information Disclosure Statement.

Terri Williams
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/958,797 | 12/18/2007 | Keiichi SUZUKI | Q105557 | 1721 |

7590 05/05/2009

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

| EXAMINER | |
|---|---|
| KOONTZ, TAMMY J | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3974 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 05/05/2009 | 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: 05/04/2009 BPOWELL
12/19/2007 INTEFSW 00000578 194880 11958797
02 FC:1111 510.00 CR

Adjustment date: 05/04/2009 BPOWELL
12/19/2007 INTEFSW 00000578 194880 11958797
02 FC:1111 510.00 CR

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**1100 13th STREET, N.W.**
**SUITE 1200**
**WASHINGTON DC 20005-4051**

| | | |
|---|---|---|
| In re Application of | : | |
| Benzion Inditsky | : | |
| Application No. 11/958,811 | : | DECISION ON PETITION |
| Filed: December 18, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 007367.00001 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 10, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 J. Brisnehan on behalf of all attorneys/agents associated with customer number 22907. All attorneys/agents associated with customer number 22907 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/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dr. Ben Inditsky
Visus Photonics Ltd.
P.O. Box 2654
Holon, Israel 58126

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**AT & T Legal Department - BHGL**
**Attn: Patent Docketing Room 2A-207**
**One AT&T Way**
**Bedminster NJ 07921**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Ron Urban et al. | : | |
| Application No. 11/958,814 | : | DECISION ON PETITION |
| Filed: December 18, 2007 | : | TO WITHDRAW |
| Attorney Docket No. 8285-950 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott W. Brim on behalf of all attorneys/agents associated with customer number 83808. All attorneys/agents associated with customer number 83808 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address will remain the same.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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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 |
|---|---|---|---|
| 11/958,814 | 12/18/2007 | Ron Urban | 8285-950 |

**CONFIRMATION NO. 1754**

**POWER OF ATTORNEY NOTICE**

83808
AT & T Legal Department - BHGL
Attn: Patent Docketing Room 2A-207
One AT&T Way
Bedminster, NJ 07921

*OC000000039111748*

Date Mailed: 12/07/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

---

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101