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

Mail Date: 04/21/2010

Applicant	: WEI-HENG SHIH	: DECISION ON REQUEST FOR
Patent Number	: 7597870	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/968,228	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD FL 33022

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In re Application of	:	
Jarret Morrow	:	DECISION ON PETITION
Application No. 11/968,246	:	TO WITHDRAW
Filed: January 2, 2008	:	FROM RECORD
Attorney Docket No. NO 672.014	:	

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, there is an outstanding Office action mailed January 25, 2010 that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,254	01/02/2008	Jason A. Swaim	10070253-01	8610

7590 12/11/2009

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

EXAMINER	
PATEL, PARESH H	
ART UNIT	**PAPER NUMBER**
2829	
NOTIFICATION DATE	**DELIVERY MODE**
12/11/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 NFARMER
01723/2008 MTEKLEMI 00000013 501678 11968254
02 FC:1111 510.00 CR
04 FC:1202 250.00 CR

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of :
COLE, Michael C. et al. :
Application No. 11/968,304 : DECISION ON PETITION
Filed: January 02, 2008 : TO WITHDRAW
Attorney Docket No. **INPH-0001-DV1** : 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 12, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that a change of address was done on January 21, 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MICHAEL C. COLE**
806 LASHLEY STREET
LONGMONT CO 80501

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF ENROLLMENT AND DISCIPLINE

In re:

Steven B. Kelber	:	DECISION ON PETITION
Jagtiani & Guttag	:	FOR REINSTATEMENT
10363-A Democracy Lane	:	
Fairfax, VA 22030	:	

Consideration has been given to the Petition for Reinstatement of Steven B. Kelber dated December 23, 2008. Mr. Kelber's attorney has filed on Mr. Kelber's behalf an Affidavit of Compliance and a Supplemental Affidavit of Compliance pursuant to 37 CFR § 11.58(b)(2) with documentation in support of the Petition. Mr. Kelber's attorney also sent to OED a letter dated January 30, 2009, responding to OED's communication dated December 31, 2008. After careful review of the Petition, supporting affidavits, documentation, and letter dated January 30, 2009, the Director of Enrollment and Discipline has determined that reinstatement of Mr. Kelber to practice before the United States Patent and Trademark Office is appropriate. Accordingly, the Petition is hereby GRANTED.

Harry I. Moatz
Director of Enrollment and Discipline

3 Feb 2009
Date

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 10, 2010

TO SPE OF : ART UNIT 2813 - SPE Matthew C. Landau.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/968,324 Patent No.: 7,626,245 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes to the claims, as requested by applicant, be approved?
See COCIN dated 05-20-2010

Certificates of Correction Branch
(571)272-0483

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.
xDenied	State the reasons for denial below.

Comments: The requested corrections change the scope of the claims to be changed. Although not integral to the reasons for allowance, the scope may not be changed. The applicant argues that the wave length is in error and one skilled in the art would "appreciate" the change. However, no proof that the wave length is in error (with all other parameters fixed, the taught wavelength is impossible) has

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

been submitted. Further, as this wavelength range is taught in the instant specification, if it is in error, questions of the patent's validity and enablement (at least in part) arise.

SPE Art Unit 2813

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Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

June 14, 2010

Patent No.: 7,626,245 B2
Applicant : Fang-Wen Tsai, et al.
Issued : December 1, 2009
For : **EXTREME LOW-K DIELECTRIC FILM SCHEME FOR ADVANCED INTERCONNECTS**

Re: Request for Certificate of Correction

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

The requested corrections change the scope of the claims to be changed. Although not integral to the reason for allowance, the scope my not be changed. The applicant argues that the wave length is in error and one skilled in the art would "appreciate" the change. However, no proof that the wave length is in error (with all other parameters fixed, the taught wavelength is impossible) has been submitted. Further, as this wavelength range is taught in the instant specification, if it is in error, questions of the patents's validity and enablement (at least in part) arise.should not be made to claim 1 because changing the term would result in a 112 second paragraph issue for claim 2.

In view of the foregoing, your request for certificate of correction is hereby denied.

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

Decisions and Certificates of Correction
Antonio Johnson
(571)272-0483

THOMAS, KAYDEN, HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA GA 30339

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

Mail Date: 04/20/2010

Applicant	: John R. Hull	: DECISION ON REQUEST FOR
Patent Number	: 7633203	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/968,350	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **74** 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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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In re Application of	:	
Richard H. Goodwin Jr.	:	DECISION ON PETITION
Application No. 11/968,422	:	TO WITHDRAW
Filed: January 2, 2008	:	FROM RECORD
Attorney Docket No. None	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2009.

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

A review of the file record indicates that Paul, Hastings, Janofsy &Walker LLP was revoked by the assignee of the patent application on December 2, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PLUMSEA LAW GROUP, LLC
10411 MOTOR CITY DRIVE
SUITE 320
BETHESDA, MD 20817

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,437	01/02/2008	Koichiro Ban	320399US2RD	8938

7590 01/28/2010

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

EXAMINER	
BOST, DWAYNE D	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
01/28/2010	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 Data
01/28/2010 [illegible]

Credit Card Refund Total [illegible]

[illegible]

Adjustment date: 01/29/2010 NFARMER
01/03/2008 INTEF3U 00001178 11968437
02 FC:1111 -510.00 OP

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OFFICE OF PETITIONS

FOX ROTHSCHILD LLP
P O BOX 592
112 NASSAU STREET
PRINCETON NJ 08542-0592

In re Application of
Simon Nicholas Richmond
Application No. 11/968,504
Filed: January 2, 2008
Attorney Docket No. 37808-00005
(5847-102.2)

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed March 30, 2009 which is treated under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 31, 2008, for failure to timely reply to the Notice to File Missing Parts mailed on January 28, 2008, which set a two (2) month shortened period for reply. A response filed March 28, 2008 included drawings and an Oath or Declaration but not the late filing surcharge and in view thereof, a NOTICE OF

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

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

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

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

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

INCOMPLETE REPLY (NONPROVISIONAL) was mailed April 11, 2008. In response thereof, on Aprill 22, 2008 however without an extension of time pursuant to 37 CFR 1.136(a). Accordingly, a Notice of Abandonment was mailed January 30, 2009.

It should be noted that while the wording of the title of the petition was to withdraw the holding of abandonment, petitioner argued that the delay was entirely unintentional and authorized the payment of the fee for the petition, this petition is treated under 37 CFR 1.137(b) as opposed to 37 CFR 1.181.

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

Furthermore, as payment of the extension fee was authorized with the instant petition, petitioner is advised that 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 $65.00 extension of time fee submitted with the instant petition was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 50-1943.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being referred to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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HUNTON & WILLIAMS LLP/VARIAN
SEMICONDUCTOR,
EQUIPMENT ASSOCIATES, INC.
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W., SUITE 1200
WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

Applicant: Takletsadik, et al.
Appl. No.: 11/968,527
Filing Date: January 2, 2008
Title: TECHNIQUES FOR REDUCING AN ELECTRICAL STRESS IN AN ACCELERATION/DECELERATION
Attorney Docket: 64981.000105
Pub. No.: US 2009/0145228 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 August 28, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the publication contains an error to claim 6 wherein the dependency of claim 6 is from the letter "S" rather than claim "5".

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 August 28, 2009, was not timely filed under 37 CFR 1.221(b).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily

[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).

increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers, Marked up Relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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

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

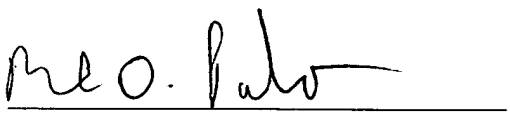
http://www.uspto.gov/patents/process/file/efs/guidance/index.jsp

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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

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

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



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

UNITED STATES PATENT and TRADEMARK OFFICE

15 SEP 2008

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of	:	DECISION ON
ZHANG Yan	:	
Application No.: 11/968,531	:	
Filing Date: 02 January 2008	:	PETITION UNDER
Attorney's Docket No.: 30952/43509	:	
For: Method and Apparatus for	:	
Transmitting Data	:	37 CFR 1.137(b)

This is in response to "Petition To Revive Unintentionally Abandoned Application," filed on 02 January 2008, which is being as a petition under 37 CFR 1.137(b).

Applicants' petition under 37 CFR 1.137(b) filed 02 January 2008 to revive international application PCT/CN2006/001346 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/CN2006/001346 became abandoned as to the United States of America at midnight on 15 December 2008 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)).

International application PCT/CN2006/001346 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 11/968,531.

This application is being forward to Office of Patent Application Processing (OPAP) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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JACQUES M. DULIN, ESQ. DBA
INNOVATION LAW GROUP, LTD.
237 NORTH SEQUIM AVENUE
SEQUIM, WA 98382-3456

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FEB 1 1 2008

OFFICE OF PETITIONS

In re Application of :
HOWARD, Laurence E. :
Application No. 11/968,569 : DECISION ON PETITION
Filed: January 02, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **7285-001US** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 04, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by Laurence E. Howard that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Ruta S. Raju	:	
Application No. 11/968,596	:	DECISION ON PETITION
Filed: January 2, 2008	:	TO WITHDRAW
Attorney Docket No. 324212016800	:	FROM RECORD
	:	

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

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

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

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

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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.
11/968,617	01/02/2008	Luck-hyun Kim	61050/S1187	9261

7590 07/09/2010
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
07/09/2010	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/09/2010 [illegible]
01/03/2008 INTERSO [illegible] 031726 11968617
02 FC:1111 510.00 CR

FORM PET651G (Rev. 08/07)

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024WASHINGTON DC 20036

MAILED

JUN 03 2010

OFFICE OF PETITIONS

In re Application of
Michael A. Sheha, et al.
Application No. 11/968,630
Filed: January 2, 2008
Attorney Docket No. 513162000110

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed April 22, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **NETWORKS IN MOTION, INC.**
6A, LIBERTY, 2ND FLOOR
ALISO VIEJO, CA 92656

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 0 7 2010

OFFICE OF PETITIONS

In re Application of
Michael A. Sheha, et al.
Application No. 11/968,635
Filed: January 2, 2008
Attorney Docket No. 513162000111

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed April 22, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **NETWORKS IN MOTION, INC.**
6A LIBERTY, 2ND FLOOR
ALISO VIEJO, CA 92656

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

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JUN 09 2008

OFFICE OF PETITIONS

In re Application of
Tsai et al.
Application No. 11/968,653
Filed: January 3, 2008
Attorney Docket No. 320854.01

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 23, 2008.

The petition is dismissed.

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above. Pursuant to petitioner's request, deposit account no. 50-0463 will be charged the $200.00 petition fee.

As to item (1), it is not clear in the documents presented whether Rule 47 applicant maintains inventor Wu cannot be reached or that Wu refuses to sign the oath.

Petitioner maintains that inventor Wu refuses to sign an oath or declaration and diligent effort was made to contact inventor Wu via his last known e-mail address.

To the extent applicants desire to make the case that the non-signing inventor refuses to execute the oath or declaration, applicant will need to establish a copy of the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign. Where the facts presented do not establish that the copy of the application papers (including specification, claims and drawings) were received, the non-signing inventors

conduct does not support a conclusion that the non-signing inventor has refused to execute the documents. Where application papers are sent via electronic mail, it must be clearly established that the documents were received and readable by the non-signing inventor.

To the extent petitioner contends inventor Wu cannot be located, petitioner has failed to establish diligent effort was used to locate the inventor The applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate non-signing inventor Wu, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor.

Petitioner has not demonstrated that all efforts were expended in trying to locate inventor non-signing Wu. In this regard, petitioner should, at the very least, conduct a search of the regional or national registry(s). The results of such search should be made in any future petition for reconsideration. *See* MPEP 409.03(d). Additionally, petitioner should state whether he has access to inventor Wu's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal? Further, the petition fails to indicate that correspondence was ever mailed unsuccessfully to the inventor's last known address. Therefore, at the very least, petitioner should mail correspondence to the inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers (specification, claims, drawings, oath, etc.) to Mr. Wu's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached after diligent effort or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.** It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2), the Combined Declaration and Power of Attorney submitted is not in compliance with 37 CFR 1.63 and 1.64. In this regard, the declaration fails to set forth a signature block for inventor Wu, including inventor Wu's citizenship. The statute at 35 U.S.C. § 115 requires that the citizenship of the inventor must be provided. Therefore, petitioner must make an attempt to ascertain inventor Wu's citizenship, either through employee records, former co-workers, etc., and must provide a statement in the renewed petition that, on information and belief, the citizenship of the inventor is with a specified country, i.e., Germany, France, etc.

37 CFR § 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application."

Under 37 CFR 1.47(a), an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. MPEP 409.03(a).

A newly executed declaration is required on renewed petition.

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

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

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

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

Telephone inquiries should be directed to undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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JUN 15 2009

OFFICE OF PETITIONS

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

In re Application of
Tsai et al.
Application No. 11/968,653
Filed: January 3, 2008
Attorney Docket No. 320854.01

: 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 30, 2009.

The petitions filed under 37 CFR 1.47 is **DISMISSED AS MOOT**.
The petition filed under 37 CFR 1.137(b) is **GRANTED**.

PETITION UNDER 37 CFR 1.47

Papers filed on April 21, 2009 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed March 27, 2009, included a Declaration signed by a previously non-signing inventor, Wu, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

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

PETITION UNDER 37 CFR 1.137(b)

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

The application became abandoned for failure to reply in a timely manner to the Petition Decision mailed June 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) were obtained. Accordingly, the application became abandoned on August 10, 2008. A Notice of Abandonment was mailed on March 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 fully executed declaration, (2) the petition fee of 1620, and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to 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

Cc: Jeffrey R. Sadlowski
8803 Brecksville Road, Suite 11
Brecksville, Ohio 44141

:

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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NOV 10 2008

In re Application of :
NAGELSKI, Keith C. :
Application No. 11/968,680 : DECISION ON PETITION
Filed: January 03, 2008 : TO WITHDRAW
Attorney Docket No. **46894-0100** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 02, 2008.

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

A review of the file record indicates that the power of attorney to Sand & Sebolt has been revoked by the assignee of the patent application on October 09, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ADAMS INTELLECTUAL PROPERTY LAW, P.A.**
Suite 2350 Charlotte Plaza
201 South College Street
CHARLOTTE NC 28244

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F. JASON FAR-HADIAN
CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of :
Shay Erlichmen :
Application No. 10/968,683 : DECISION ON PETITION
Filed: October 18, 2004 : TO WITHDRAW
Attorney Docket No. 1005-27-01 USP : FROM RECORD
:

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

The request is **NOT APPROVED**.

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

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

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 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: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,703	01/03/2008	Nizar Mehio	KBMYA-0005	9389

7590 02/13/2008

General Counsel, PC
6862 Elm Street, Suite 800
McLean, VA 22101

EXAMINER	
ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
02/13/2008	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

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2/13/08

CST

In re application of :
Nizar Mehio :
Serial No. 11/968,703 : DECISION ON PETITION
Filed: January 3, 2008 : TO MAKE SPECIAL
For: PORTABLE HOOKAH SYSTEM AND :
HOOKAH CONTAINMENT DEVICE :

This is a decision on the petition filed on January 3, 2008 to make the above-identified application special under the accelerated examination program.

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

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

REVIEW OF FACTS

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

First, it appears that the search is incomplete. Note that a search in Class 206, subclass 242; Class 211, subclass 70.3; Class 220; Class 312; Class 119, subclass 459; Class D30, subclass 114 and Class D27, subclasses 172, 180, 181 and 193 is also required.

These classes are included because the claims have been given their broadest reasonable interpretation; that is, a containment device having the claimed features.

Furthermore, with respect to the references discussed in the AESD on pages 6-7 (specifically the Harout and Bechtold references), petitioner has failed to identify where each and every limitation of the claims are disclosed in the cited references. While it is noted that petitioner has discussed the relationship between the Newman reference and the present independent claims, and includes the statement that Newman does not disclose any other limitations affirmatively claimed in claims 1-20, the relationship between all of the present claims and the Harout and Bechtold references has not been discussed. For example, note that while petitioner discusses claim 4 (a dependent claim) and the Harout reference, petition does not discuss whether or not Harout discloses any of the claimed features recited in present claim 1.

Also, the statement showing support for the present claims on page 14 of the AESD is not sufficient. It is required that petitioner provide a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. Merely stating where support for claim 1, as a whole, is found in the specification is not sufficient.

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

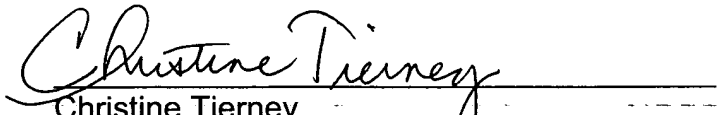
DECISION

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

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

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

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



Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,703	01/03/2008	Nizar Mehio	KBMYA-0005	9389

64275 7590 04/03/2008

General Counsel, P.C.
6862 Elm Street
SUITE 800
McLean, VA 22101

EXAMINER	
NGUYEN, PHU HOANG	
ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
04/03/2008	PAPER

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

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

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Alexandria, VA 22313-1450
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CST

4-3-08

In re application of
Nizar Mehio
Serial No. 11/968,703
Filed: January 3, 2008
For: PORTABLE HOOKAH SYSTEM AND HOOKAH CONTAINMENT DEVICE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Request for Reconsideration filed on March 11, 2008 to make the above-identified application special under the accelerated examination program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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OFFICE OF PETITIONS

Sand & Sebolt
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718-3615

In re Application of	:	
Keith C. Nagelski	:	
Application No. 11/968,709	:	DECISION ON PETITION
Filed: January 3, 2008	:	TO WITHDRAW
Attorney Docket No. 2441038US2AP	:	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 2, 2008.

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 Joseph A. Sebolt and all attorneys/agents of record have been revoked by the assignee of the patent application on October 9, 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: Adams Intellectual Property Law, P.A.
Suite 2350
201 South College Street
Charlotte, NC 28244

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SUITE # 101
MESA AZ 85201

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OFFICE OF PETITIONS

In re Application of :
Gregory Wayne Peterson et al. :
Application No. 11/968,804 : DECISION REFUSING STATUS
Filed: January 3, 2008 : UNDER 37 CFR 1.47(b)
Attorney Docket No. ATLA-10761 :

This is in response to the petition filed under 37 CFR 1.47(b)[1] on June 24, 2008 which is treated under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 3, 2008 without a signed oath or declaration. Accordingly, on January 24, 2008, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

In response, the instant petition and an oath or declaration executed by all inventors except joint inventor Tim Chu, and a three month extension of time was filed, seeking status under 37 CFR 1.47 claiming that after diligent effort, Mr. Chu could not be found.

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

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. In the instant case, five inventors have been named but the oath or declaration is missing the signature of only one of the named inventors, thus, this petition will be treated under 37 CFR 1.47(a).

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

The petition lacks item (1).

While petitioners argue that Mr. Chu no longer lives at the last known address, petitioners have not provided any evidence to substantiate the claim that Mr. Chu does not live at the last known address nor have they provided evidence that any efforts were made to locate him other than to say that he could not be located.

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[2] Before additional efforts to locate Mr. Chu are undertaken and before petitioners determine that Mr. Chu cannot be located, petitioners must first establish that Mr. Chu no longer lives at the last known address provided. Was mail sent to Mr. Chu at the last known address and returned undeliverable? What is petitioner's belief that Mr. Chu can't be located at his last known address based on?

After it is established that Mr. Chu no longer resides at the last known address petitioners can then provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Chu other than through personnel and government information such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Chu by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

If Mr. Chu is located and he refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to

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[2]MPEP 409.03(d).

sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

If it is found that Mr. Chu is residing at a different address than that listed in the initial petition, petitioners should provide a new statement of the last known address in a renewed petition.

Finally, petitioners are advised that the fee for a petition under 37 CFR 1.47(a) is set at $200.00 and not $130.00 as indicated in the petition. In view thereof and in view of the authorization to charge petitioner's deposit account for any deficiencies, deposit account no. 19-0513 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which was due.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the deficiencies have been cured.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Gregory Wayne Peterson et al.
Application No. 11/968,804
Filed: January 3, 2008
Attorney Docket No. ATLA-10761

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

This is in response to the request for reconsideration filed January 28, 2009 under 37 CFR 1.47(a)

The above-identified application was filed on January 3, 2008 without a signed oath or declaration. Accordingly, on January 24, 2008, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration. A petition seeking status under 37 CFR 1.47(a) was filed June 24, 2008 and was dismissed in a decision mailed August 28, 2008 because petitioner had not provided sufficient proof that any efforts were made to locate joint inventor Chu other than to say that he could not be located.

Papers filed January 28, 2009, with a three month extension of time, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed August 28, 2008, include a declaration signed by joint inventor Tim Chu in compliance with 37 CFR 1.63.

In view of the joinder of the previously non-signing joint inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed January 28, 2009 is **DISMISSED** as involving moot issues.

Since the instant petition is a renewed petition, no additional petition fees are due. The fee for the petition in the amount of $200 paid with the instant petition will be credited back to the credit card used.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
SUITE 2300
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Ronak J. Bhatt	: DECISION ON REQUEST FOR
Patent Number	: 7612346	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/968,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **93** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Chang-Ho Lee et al :
Application No. 11/968,862 : ON PETITION
Filed: January 3, 2008 :
Attorney Docket No. 24734-0037

This is a decision on the petition, filed June 30, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 27, 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 2817 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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OFFICE OF PETITIONS

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

In re Application of :
Sung-Hee Hwang, et. al. :
Application No. 11/968,878 : ON PETITION
Filed: January 3, 2008 :
Attorney Docket No. 1101.0180C4 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on December 11, 2008. A Notice of Abandonment was mailed June 16, 2009.

It is not apparent whether petitioner was a representative of the applicant at the time of abandonment. However, in accordance with 37 CFR 10.18, the statement of unintentional delay is accepted as constituting a certification of the delay and in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make an inquiry into the facts surrounding the delay. If it is discovered that the delay was intentional, petitioner must notify the Office immediately.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2627 for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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SEP 09 2008

In re Application of :
Nahikian, et al. :
Application No. 11/968,880 : DECISION ON PETITION
Filed: January 3, 2008 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 124557.00003 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 9, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on January 3, 2008, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/878,812, which was filed on January 5, 2007, and for which priority is claimed.

The petition, however, fails to satisfy (1) set forth above.

A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title. The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(6)(i).

When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This

application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence(s) of the description or in an application data sheet. See, generally, MPEP 201.11.

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

Also, 37 CFR § 1.78(a)(6) require 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. 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) (6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Receipt of the required surcharge is hereby acknowledged.

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 Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

Applicant: Rosen et al.
Appl. No.: 11/968,925
Filing Date: January 3, 2008
Title: HXAAA01 POLYNUCLEOTIDES
Attorney Docket: PS736D1
Pub. No.: US 2009/0203635 A1
Pub. Date: August 13, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 13, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the publication contains minor PTO errors, such as capitalization and the like.

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 instant request does not state why the identified error should be considered a material mistake in the publication made by the Office under 37 CFR 1.221(b). The error is in claim 11's reference to subpart (O), rather than subpart (j) of claim 1. It is first noted that claims 2-10 refer to consecutive subparts (a)-(i) of claim 1, and that there is no subpart (O) of claim 1. One of skill in the art would recognize the (O) in claim 11 to be an erroneous printing and understand the

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

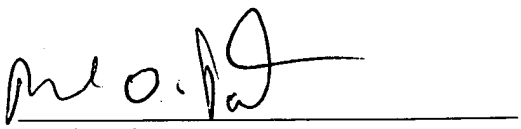
intended reference to (j). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. Therefore, the instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b).

It is noted that the error appears to be due to faulty optical character recognition, which is not Office error. The error appears to be due to the quality of the text, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52(a)(1)(v), which states that all papers that are to become a permanent part of Office records must be presented "in a form having sufficient clarity and contrast between the paper and the writing to permit . . . electronic capture by use of digital imaging and optical character recognition." 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)."

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".

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



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

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OFFICE OF PETITIONS

In re Application of :
Keith C. Nagelski :
Application No. 11/968,946 : DECISION ON PETITION
Filed: January 3, 2008 : TO WITHDRAW
Attorney Docket No. 3719/722US : 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 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sand & Sebolt has been revoked by the assignee of the patent application on October 9, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: INVUE SECURITY PRODUCTS, INC.
15015 LANCASTER HIGHWAY
CHARLOTTE, NC 28277-2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,951	01/03/2008	Joseph Kuczynski	ROC920070397US1	9850

59452 7590 01/22/2008

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

EXAMINER	
ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
01/22/2008	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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1-22-08

In re application of
Joseph Kuczynski
Serial No. 11/968,951
Filed: January 3, 2008
For: DRY ADHESIVES, METHODS OF MANUFACTURE THEREOF AND ARTICLES COMPRISING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on January 3, 2008 to make the above-identified application special under the accelerated examination program.

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

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

DECISION

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-4) are considered to have been met. However, the petition fails to comply with section II, subsections 5 and 6.

First, it appears that the search (section II, subsection 5.1) is incomplete. A search in the following classes and subclasses is required:

428/546, 607, 612, 626, 675, 323, and 457
977/932

Also, the showing of support (section II, subsection 6.5) is overly general and lacks the necessary specificity. The showing should specify where *each limitation* of the claims finds support under the first paragraph of 35 U.S.C. 112 in the written description of the instant specification, rather than merely referring broadly to portions of the specification as supporting the claim as a whole. For example, the support document should read along the lines of "the limitation of 'inorganic or metallic nanoparticles having diameters of less than or equal to about 100 nanometers' is supported at least by paragraphs [0004], [0026] and [0033]."

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

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

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

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

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

/Gregory Mills/

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,951	01/03/2008	Joseph Kuczynski	ROC920070397US1	9850

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3-13-08

In re application of
Joseph Kuczynski
Serial No. 11/968,951
Filed: January 3, 2008
For: DRY ADHESIVES, METHODS OF MANUFACTURE THEREOF AND ARTICLES COMPRISING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the REQUEST FOR RECONSIDERATION OF PETITION TO MAKE SPECIAL filed on February 21, 2008 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

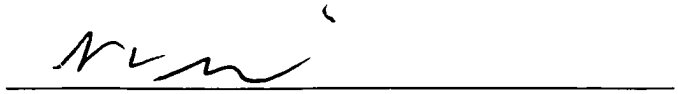
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

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



Gregory Mills
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Fildes & Outland, P.C.
20916 Mack Avenue, Suite 2
Grosse Pointe Woods, MI 48236

Mail Date: 04/26/2010

Applicant	: Thomas Jaeger	: DECISION ON REQUEST FOR
Patent Number	: 7665996	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/968,956	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **122** 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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COATS & BENNETT/QIMONDA
1400 CRESCENT GREEN
SUITE 300
CARY, NC 27518

Mail Date: 04/21/2010

Applicant	: Hoon Ryu	: DECISION ON REQUEST FOR
Patent Number	: 7573769	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/968,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **76** 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.
11/968,978	01/03/2008	Joseph Kuczynski	ROC920070576US1	9893

59452 7590 01/23/2008

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1-23-08

In re application of
Joseph Kuczynski
Serial No. 11/968,978
Filed: January 3, 2008
For: ELECTRICALLY CONDUCTING GASKET, METHOD OF MANUFACTURE THEREOF AND ARTICLES COMPRISING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on January 3, 2008 to make the above-identified application special under the accelerated examination program.

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

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

DECISION

The conditions regarding the application (section I, subsections 1-4) discussed above are considered to have been met. Additionally, the conditions regarding the petition (section II, subsections 1-5) are considered to have been met. However, the petition fails to comply with section II, subsection 6.

The showing of support (section II, subsection 6.5) is overly general and lacks the necessary specificity. The showing should specify where *each limitation* of the claims finds support under the first paragraph of 35 U.S.C. 112 in the written description of the instant specification, rather than merely referring broadly to portions of the specification as supporting the claim as a whole. For example, the support document should read along the lines of "the limitation of 'a core foam' is supported at least by paragraphs [0010] and [0013]."

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

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

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

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

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

/Gregory Mills/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/968,978	01/03/2008	Joseph Kuczynski	ROC920070576US1	9893

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3-13-08

In re application of Joseph Kuczynski Serial No. 11/968,978 Filed: January 3, 2008 For: ELECTRICALLY CONDUCTING GASKET, METHOD OF MANUFACTURE THEREOF AND ARTICLES COMPRISING THE SAME	: : : : : : : : :	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the REQUEST FOR RECONSIDERATION OF PETITION TO MAKE SPECIAL filed on February 22, 2008 to make the above-identified application special for accelerated procedure under 37 C.F.R. § 1.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

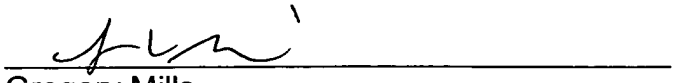
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

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



Gregory Mills
Quality Assurance Specialist
Technology Center 1700

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

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of :
Rimmer, Julian :
Application No. 11/968,995 : ON PETITION
Filed: January 3, 2008 :
Attorney Docket No. 027198.813 :

This is a decision on the petition under 37 CFR 1.181, filed March 11, 2009, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **DISMISSED.**

The above-identified application was held abandoned for failure to timely reply to the failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 24, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before March 24, 2008. A Notice of Abandonment was mailed on January 30, 2009.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the Patent Electronic Filing Acknowledgement Receipt dated April 23, 2008. Petitioner has also supplied a copy of the previously submitted correspondence.

A review of the application file indicates the reply submitted by the petitioner on April 23, 2008 is actually of record. In this regard, the Notice of Abandonment was misleading by stating, "No reply was received." However, the issue lies with the fact that the reply submitted on April 23, 2008 was outside of the time period for reply. A one-month extension of time was necessary for the reply to be considered timely. As there is no general authorization to charge a deposit account in the instant application, the fee could not be collected and the instant application was properly abandoned.

Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

Should petitioner be able to provide proof that an extension of time was submitted with the reply or that a general authorization to charge a deposit account was in fact in the instant application on April 23, 2008, petitioner should provide the proper documentation with a renewed petition under 37 CFR 1.181. However, if petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3,

96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

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

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

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

By hand: Customer Window located at:

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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1230 PEACHTREE STREET NE
ATLANTA GA 30309-3592

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SEP 08 2009

OFFICE OF PETITIONS

In re Application of :
Julian Rimmer :
Application No. 11/968,995 : ON PETITION
Filed: January 3, 2008 :
Attorney Docket No. 027198.813 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 16, 2009.

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

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Missing Parts, mailed January 24, 2008. This Notice set an extendable period for reply of two (2) months for applicant to submit replacement drawings, an oath or declaration, the surcharge for its late filing, and the statutory basic filing fee. On April 23, 2008, applicant filed a reply. However, the reply did not include the one month extension of time that was needed to make the reply timely. As such, the application became abandoned on April 25, 2008. The Office mailed a Notice of Abandonment on January 30, 2009

With the instant petition, applicant paid the petition fee and made the proper statement of unintentional delay. The required reply was previously filed on April 23, 2008.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET,
SUITE 2250
MINNEAPOLIS MN 55402

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FEB 01 2010

In re Application of	:	
Schulze et al	:	
Application No. 11/969,017	:	DECISION GRANTING PETITION
Filed: January 3, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1434.173.101/1ft1240US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 29, 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 29, 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 2895 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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TRADEMARK SERVICES
P.O. BOX 220746
CHANTILLY VA 20153-0746

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Pan, et al. :
Application No. 11/969,043 : DECISION
Filed: 3 January, 2008 :
Attorney Docket No. PBUS070056 :

This is a decision on the petition, filed on 6 February, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

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

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Following the Notice to File Corrected Application Papers (drawings) mailed by the Office on 24 January, 2008, with reply due absent extension of time on or before, 24 March, 2008, Petitioner filed a reply in the form replacement drawings on 14 April, 2008, but no request and fee for extension of time (and it appears that there was no general fee authorization filed on deposit of the application). Thereafter, Petitioner failed to reply timely and properly to the Notice of Incomplete Reply (copy enclosed) mailed on 30 April, 2008, with reply due maintained as to the original Notice (i.e., 24 March, 2008.

On 1 May, 2008, Petitioner filed only a fee for a one- (1-) month extension of time, ignoring the fact that Petitioner's complete reply—including fees—was not submitted until the second month following the original shortened statutory period, and a two- (2-) month extension of time was required. Again, Petitioner provided no general fee authorization with the 1 May, 2008, filing—indeed, Petitioner filed no Fee Transmittal Form, but, rather, only a fee worksheet for a one- (1-) month extension of time.

The application went abandoned by operation of law after midnight 24 April, 2008.

The Office mailed the Notice of Abandonment on 30 January, 2009.

On 6 February, 2009, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.181, averring timely reply with copies of the Electronic Acknowledgement Receipt.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is

shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

Again, Petitioner's dilemma here is not that he failed to reply, but, rather, that his reply was incomplete—when Petitioner's delay required a two- (2-) month extension of time to complete the reply, Petitioner submitted only a request and fee for a one- (1-) month extension of time.

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[1] *See*: MPEP §711.03(c) (I)(B).

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

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

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

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

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HDLS PATENT & TRADEMARK SERVICES
P.O. BOX 220746
CHANTILLY VA 20153-0746

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AUG 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Min-Chun Pan	:	
Application No. 11/969,043	:	DECISION ON PETITION
Filed: January 3, 2008	:	
Attorney Docket No. PBUS070056	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the Notice to File Corrected Application Papers (Notice) mailed January 24, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 25, 2008. A Notice of Abandonment was mailed January 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Replacement drawings (previously submitted April 14, 2008), (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

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

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

Joan Olszewski
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,078	01/03/2008	Haruyuki IKEO	MNL-2018-1887	1085

7590 08/05/2009

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

EXAMINER	
ZIMMERMAN, BRIAN A	

ART UNIT	PAPER NUMBER
2612	

MAIL DATE	DELIVERY MODE
08/05/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
08/07/2009 0038073081

Credit Card Refund Total: $510.00

Am Exp...: XXXXXXXXXXX2021

Adjustment date: 08/07/2009 NFARMER
01/04/2008 INTEFSW 00002629 11969078
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

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Law Offices of Eric Karich
2807 St. Mark Drive
Mansfield, TX 76063

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FEB 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Ron Meiry, et al.	:	
Application No. 11/969,093	:	DECISION ON PETITION
Filed: January 3, 2008	:	TO WITHDRAW
Attorney Docket No. 0514-10UA	:	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 4, 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 Eric Karich 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 Ron Meiry at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed July 1, 2009.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Ron Meiry**
2368 N. Vallejo Way
Upland, CA 91784

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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
11/969,093	01/03/2008	Ron Meiry	0514-10UA

CONFIRMATION NO. 1108

POWER OF ATTORNEY NOTICE

21704
LAW OFFICES OF ERIC KARICH
2807 ST. MARK DR.
MANSFIELD, TX 76063

Date Mailed: 02/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/04/2009.

- 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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ANNANDALE, VA 22003

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APR 01 2010

OFFICE OF PETITIONS

In re Application of
Erik S. Jeng, et al.
Application No. 11/969,119
Filed: January 3, 2008
Attorney Docket No. 18817-021CON

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 30, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 30, 2009. A Notice of Abandonment was subsequently mailed on December 8, 2009. On December 30, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 2814 for appropriate action by the Examiner in the normal course of business on the amendment received December 30, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JUSTIN KING
1940 DUKE STREET, SUITE 200
ALEXANDRIA, VA 22314

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MICHAEL J. BUCHENHORNER
8540 SW 83 STREET
MIAMI, FL 33143

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of
Raj Jen GOKAL
Application No. 11/969,123
Filed: January 3, 2008
Attorney Docket No. **WWK2008001**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 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 Michael Buchenhorner, the sole attorney of record. Michael Buchenhorner has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

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

cc: **RAJ JEN GOKAL**
2340 NW 102ND PLACE, SUITE 201
MIAMI, FL 33172

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MICHAEL J. BUCHENHORNER
8540 SW 83 STREET
MIAMI, FL 33143

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Raj Jen GOKAL :
Application No. 11/969,123 : DECISION ON PETITION TO
Filed: January 3, 2008 : WITHDRAW FROM RECORD
Attorney Docket No. **WWK2008001** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2009.

The request is **APPROVED**.

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

The request was signed by Michael Buchenhorner, the sole attorney of record. Michael Buchenhorner has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

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

cc: **RAJ JEN GOKAL**
2340 NW 102ND PLACE, SUITE 201
MIAMI, FL 33172

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

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
HORBACH, Ulrich et al. :
Application No. 11/969,149 : DECISION ON PETITION
Filed: January 03, 2008 : TO WITHDRAW
Attorney Docket No. **11336-1806 (P02098USD)** : 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 review of the file record indicates that the power of attorney filed by the assignee of the patent application on July 06, 2009 does not list the reel and frame. 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: **THE ECLIPSE GROUP LLP**
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

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AUG 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Colleran et al.	:	DECISION ON PETITION
Application No. 11/969,165	:	TO WITHDRAW
Filed: January 3, 2008	:	FROM RECORD
Attorney Docket No. 04-031-US1 (IST 3585001)	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 7, 2009.

The request is **NOT APPROVED**.

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

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

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 03705 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). This includes address changes to law firms, where no new power of attorney has been filed in the application. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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JUN 03 2010

OFFICE OF PETITIONS

In re Application of :
Neng-Kuo Chen, et. al. :
Application No. 11/969,168 : ON PETITION
Filed: January 3, 2008 :
Attorney Docket No. TSM07-0618 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 7, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3) above.

The application was held abandoned for failure to file a response to the non-final Office action mailed June 10, 2009. A Notice of Abandonment was mailed on March 2, 2010.

In the present petition, petitioner states "On December 11, 2009, Examiner called Ruojian Zhang, Agent for Applicants stating that the statutory six month date to respond to the June 10, 2009 Office action had passed. On December 11, 2009, Applicants obtained a copy of the June 10, 2009 Office Action from Private PAIR. December 11, 2009 was the first time that Applicants learned of the Office Action of June 10, 2009."

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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).

A review of the record indicates no irregularity in the mailing of the June 10, 2009 Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

With respect to item (3), 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**.

In the present petition, petitioner submitted a "Case Tracking System Reminder List", which shows due dates dated from December 1, 2009 through December 13, 2009 and a "Case Tracking System US Patent Office Action Table Report", dated December 18, 2009. However, petitioner did not submit the master docket dated three months from the mail date of the nonreceived Office action; therefore, the present petition cannot be granted at this time.

In view of the above, the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(II)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

If petitioner cannot provide the evidence required to establish under the 37 CFR 1.137(a) that the delay in providing the required reply to the decision mailed on November 14, 2005 was unavoidable, or simply does not wish to, petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § '41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620 petition fee.

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

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

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

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

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

The Centralized facsimile number is (571) 273-8300, and documentation to this number should be addressed to the Office of Petitions.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(a).

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

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

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MAY 15 2009

OFFICE OF PETITIONS

Applicant: Vaartstra, Brian A.
Appl. No.: 11/969,182
Filing Date: January 3, 2008
Title: SYSTEMS AND METHODS OF FORMING TANTALUM SILICIDE LAYERS
Attorney Docket No.: 150.01320103
Pub. No.: US 2008/0102629 A1
Pub. Date: May 1, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221, received on May 29, 2008, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, consisting of "SIH_pR_q" rather than "SiH_pR_q" in the specification.

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]

With respect to the typos, which comprise "SIH_pR_q" rather than "SiH_pR_q", the understanding of the publication is not materially affected because the public would recognize the proper formula from the context, which describes the molecule as "an organic silane".

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

[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 "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/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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JUN 23 2008

In re Application of	:	
Mehmet ASLAN, et al	:	
Application No. 11/969,189	:	DECISION ON PETITION
Filed: January 3, 2008	:	TO WITHDRAW
Attorney Docket No. 08211/1201012-US2	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by John W. Branch on behalf of all attorneys/agents associated with Customer No. 38845.

All attorneys/agents associated with Customer No. 38845 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).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MEHMET ASLAN
735 CALICO COURT
SUNNYVALE, CA 94086

GIRARD & EQUITZ LLP
(ATTN: PHILIP GIRARD)
400 MONTGOMERY STREET,
SUITE 1110
SAN FRANCISCOM CA 94104

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1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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JAN 09 2009

OFFICE OF PETITIONS

In re Application of :
Northrop :
Application No.11/969,212 :
Filed: January 3, 2008 :
Attorney Docket No. 1001.1952101 :

Decision Noting Joinder of Inventor and
Decision Dismissing Any Request for
Status Under 37 CFR 1.47 as Moot

This decision responds to the petition under 37 CFR 1.47(b) filed August 1, 2008, and supplemented August 22, 2008.

The petition is **dismissed as moot**.

The petition was filed August 1, 2008, along with a proper payment for a four-month extension of time.

On August 22, 2008, petitioner submitted a declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, consideration under Rule 1.47(b) is unnecessary.

On August 22, 2008, petitioner submitted payment of $590 in order to obtain a five-month extension of time. However, the period of time to reply to the notice mailed February 1, 2008, ended on August 1, 2008, when the petition was filed. Therefore, a five-month extension of time is unnecessary and the $590 payment has been credited back to petitioner's deposit account.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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LEE G. MEYER, ESQ.
MEYER & ASSOCIATES, LLC
17462 E. POWERS DRIVE
CENTENNIAL, CO 80015-3046

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Joseph H. Miglietta, et al. :
Application No. 11/969,221 : DECISION ON PETITION
Filed: January 3, 2008 : TO WITHDRAW
Attorney Docket No. 50096.0003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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. 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 Lee G. Meyer on behalf of all attorneys of record who are associated with customer No. 36178.

All attorneys/agents associated with the Customer Number 36178 have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

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

cc: JOSEPH MIGLIETTA
10353 E. SUTTON DRIVE
SCOTTSDALE, AZ 85260

PTO/SB/130 (03-08)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/969,255	Confirmation Number	1476	Filing Date	2008-01-04
Attorney Docket Number (optional)		Art Unit	3753	Examiner	
First Named Inventor	Philip Hent				
Title of Invention	DUAL LIFT VALVE FOR RECIPROCATING COMPRESSOR AND PUMPS				

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
Homer	Eugene	Bassett	

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	/H. Bassett, PE/	Date (YYYY-MM-DD)	2008-06-05
Name	H. Bassett, PE		

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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In re Application of
Philip Hunt

Application No. 11969255

Filed: January 4,2008

Attorney Docket No.

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 05-JUN-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

Commissioner for Patents
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November 18, 2009 CST

In re application of	:	DECISION ON REQUEST TO
Takashi Kawamori et al	:	PARTICIPATE IN PATENT
Serial No. 11/969,358	:	PROSECUTION HIGHWAY
Filed: January 4, 2008	:	PROGRAM AND
For: PHOTOSENSITIVE ADHESIVE COMPOSITION, AND OBTAINED USING THE SAME	:	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 September 17, 2009.

The request and petition are **DISMISSED**.

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

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

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

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

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

(5) Applicant must submit:

a. Documentation of prior office action:
   i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
   ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
   iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:

   Further, if a copy of the documents from (i) or (ii) is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:

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

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

The request to participate in the PPH program and petition fail because:

(3) All of 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).

Claim 6 of the present application depends from claim 5. However, claim 8 of the JPO application, which appears to correspond to claim 6 of the present application, depends on claim 7 which could depend on claim 5. Thus, present claim 6 does not include the limitations of JPO claim 7 (specifically that the glass transition temperature of the polyimide is 150°C or less).

Similarly, note claim 7 of the present application which depends from claim 5. However, claim 9 of the JPO application, which appears to correspond to claim 7 of the present application, depends on claim 7 which could depend on claim 5. Thus, present claim 7 does not include the limitations of JPO claim 7 (specifically that the glass transition temperature of the polyimide is 150°C or less).

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

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

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

/Christine Tierney/

_____

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,358	01/04/2008	Takashi Kawamori	1303.48159X00	1676

20457 7590 12/30/2009

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

EXAMINER	
WALKE, AMANDA C	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/30/2009	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

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CST

DEC 30 2009

In re application of Takashi Kawamori et al Serial No. 11/969,358 Filed: January 4, 2008 For: PHOTOSENSITIVE ADHESIVE COMPOSITION, AND OBTAINED USING 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 supplemental request to participate in the Patent Prosecution Highway (PPH) program filed December 16, 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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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE CA 92614-6232

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Young et al. :
Application No. 11/969,369 :
Filed: January 4, 2008 :
Attorney Docket No. 101694.0001US :

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 on May 17, 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.

A review of the record indicates that the practitioner(s) associated with the above-mentioned application were not appointed power of attorney via Customer Number. The power of attorney filed January 4, 2008, designates the appointed attorneys by registration number. Therefore, the current request cannot be approved at this time. Any subsequent request must withdraw all associated practitioner(s) in the same manner as appointed.

Further, 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,384	01/04/2008	Yoshihisa YAMADA	320423US26	1729

7590 02/19/2009

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

EXAMINER	
MAWARI, REDHWAN K	

ART UNIT	PAPER NUMBER
3663	

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 0030066843

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1000

Adjustment date: 02/19/2009 NFARMER
01/04/2008 INTEFSW 00007546 11969384
02 FC:1111 -510.00 Op

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In re Application of
Sigram Schindler

Application No. 11969388

Filed: January 4,2008

Attorney Docket No. 8096.059.NPUS00

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 27-MAY-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

Applicant	: Jaganmohan B. L. Rao	: DECISION ON REQUEST FOR
Patent Number	: 7656351	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/969,390	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/04/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

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JUN 08 2010

OFFICE OF PETITIONS

In re Application of :
DAVID GROSSEIN ET AL. :
Application No. 11/969,391 : DECISION ON PETITION
Filed: January 4, 2008 :
Attorney Docket No. **0540-1115** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 2, 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 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3644 for appropriate action by the Examiner in the normal course of business.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE CA 92614-6232

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Sean Ryan	:	DECISION ON PETITION
Application No. 11/969,409	:	TO WITHDRAW
Filed: January 4, 2008	:	FROM RECORD
Attorney Docket No. 101396.0004US1	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 13, 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) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently this application has been docketed and is awaiting examination.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 MAIN STREET
SUITE 1000
IRVINE CA 92614-6232

COPY MAILED

JUL 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Sean Ryan	:	DECISION ON PETITION
Application No. 11/969,409	:	TO WITHDRAW
Filed: January 4, 2008	:	FROM RECORD
Attorney Docket No. 101396.0004US1	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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 Robert D. Fish on behalf of all attorneys of record who are associated with Customer No. 24392.

All attorneys/agents associated with Customer Number 24392 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Sean Ryan
1452 Carmelita Street
Laguna Beach CA 92651

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,413	01/04/2008	Victor Zyuban	YOR920070248US1	1802

48915 7590 02/27/2008

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

EXAMINER
TO, JENNIFER N

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
02/27/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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02/26/08

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

In re Application of: ZYUBAN, et al.
Serial No.: 11/969,413
Filed: January 4, 2008
Docket: YOR920070248US1
Title: SYSTEMS AND METHODS FOR IMPLEMENTING DYNAMIC LIFETIME RELIABILITY EXTENSION FOR MICROPROCESSOR ARCHITECTURES

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

This is a decision on the petition filed on January 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 **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 (classification search) is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: class 718 (ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: VIRTUAL MACHINE TASK OR PROCESS MANAGEMENT OR TASK MANAGEMENT/CONTROL) subclasses 104 and 105 (where the instant application is classified), as well as class 709 (ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: MULTICOMPUTER DATA TRANSFERRING subclasses 223-226, drawn to computer network managing, network resource allocating for claims 1-5, should be searched.

With respect to the search logic identified, corresponding to the instant claim language, the search terms utilized appear be incomplete. 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:

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Resource with (allocating or assigning or mapping)

Resource with monitoring with (usage or threshold) and resource with
adjustment with priority

Resource with reservation
```

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.

[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 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.
11/969,413	01/04/2008	Victor Zyuban	YOR920070248US1	1802

48915 7590 03/31/2008

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EXAMINER	
TO, JENNIFER N	

ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
03/31/2008	PAPER

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

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

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03/31/2008

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HARTFORD, CT 06103-3207

In re Application of:
ZYUBAN, et al.
Serial No.: 11/969,413
Filed: January 4, 2008
Docket: YOR920070248US1
Title: SYSTEM and METHOD FOR IMPLEMENTING DYNAMIC LIFETIME RELIABILITY EXTENSION FOR MICROPROCESSOR ARCHITECTURES

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 11, 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 January 4, 2008 was dismissed in the decision mailed on February 27, 2008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

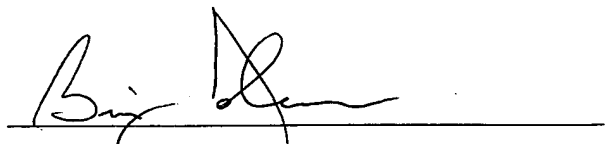
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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

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

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



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,436	01/04/2008	Pradip Bose	YOR920070634US1	1851

48915 7590 03/03/2008
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EXAMINER	
SPARKS, DONALD ALAN	

ART UNIT	PAPER NUMBER
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03/03/2008	PAPER

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

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

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3/3/08

In re Application of: BOSE, et al.
Serial No.: 11/969,436
Filed: January 4, 2008
Docket: YOR920070634US1
Title: DYNAMIC REDUNDANCY FOR MICROPOCESSOR COMPONENTS AND CIRCUITS PLACED IN NONOPERATIONAL MODES

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

This is a decision on the petition filed on January 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 **DISMISSED**.

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees that the dependent claims will be grouped together with and not to separately argue the patentability of any independent claim from which they depend during any appeal in the application;

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

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

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items 5.2 - 5.3 above, the preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the (instant) claims.

Specifically and with respect to items 5.2 - 5.3 above, Petitioner should identify whether the text search logic identified in the instant petition was utilized in combination with the field of search (i.e. class/subclass - cl. 365/63, 189.02, 189.12, 230.02, 230.09; cl. 711/3, 101; and cl. 714/710) or separate therefrom (i.e. state whether or not the identified subclasses were searched in their entirety). In addition, based upon the claimed subject matter of the instant application, a search in the following class and subclass(es) is necessary in order to provide full coverage of where the most pertinent references are most likely to be found: cl. 711 (ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: MEMORY) subclass 128 (.Hierarchical memories, ..Caching, ...Associative, and currently the original classification of the instant application) as well as the following: cl. 711 subclasses 2, 112-114; cl. 712 (ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: PROCESSING ARCHITECTURES AND INSTRUCTION PROCESSING (E.G., PROCESSORS) subclasses 42, 43; cl. 713 (ELECTRICAL COMPUTERS AND DIGITAL PROCESSING SYSTEMS: SUPPORT) subclasses 323, 324; and cl. 714 (ERROR DETECTION/CORRECTION AND FAULT DETECTION/RECOVERY) subclasses 10, 11. Further, the search should have included an international search in the following areas: G06F 1/00, G06F 11/00, G06F 12/00, G06F 12/02, G06F 13/00, and G06F 13/28 in order to complete the search for the pending instant claims.

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

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in <u>each</u> of the independent claims*** i.e. reference must be made to the "***method*** and apparatus for microprocessor components and circuits ..." as stated on page 9 of the instant petition whereas independent claim 1 (as well as dependent claims 2-5) is drawn to a "apparatus for implementing dynamic redundancy for a microprocessor system ...". Correction is required.

Thus, the petition does not meet the conditions II. 5.2-5.3 and 6.4 above.

[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) is permitted) from the date of this decision in order to be considered timely. Any request for reconsideration ***must fully address all of the deficiencies indicated above***. [emphasis added]

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

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,436	01/04/2008	Pradip Bose	YOR920070634US1	1851

48915 7590 03/31/2008

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EXAMINER	
SPARKS, DONALD ALAN	
ART UNIT	**PAPER NUMBER**
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03/31/2008

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HARTFORD, CT 06103-3207

In re Application of:
BOSE, et al.
Serial No.: 11/969,436
Filed: January 4, 2008
Docket: YOR920070634US1
Title: DYNAMIC REDUNDANCY FOR MICROPROCESSOR COMPONENTS AND CIRCUITS PLACED IN NONOPERATIONAL MODES

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 11, 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 January 4, 2008 was dismissed in the decision mailed on March 3, 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.

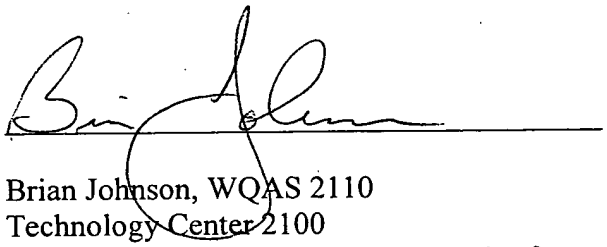
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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.
11/969,463	01/04/2008	Bharat S. Bagepalli	229524	1898

7788 7590 02/19/2010

GE ENERGY GENERAL ELECTRIC
C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY, NY 12345

EXAMINER	
ART UNIT	PAPER NUMBER
3633	

MAIL DATE	DELIVERY MODE
02/19/2010	PAPER

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

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

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GE ENERGY GENERAL ELECTRIC
C/O ERNEST G. CUSICK
ONE RIVER ROAD, BLD. 43, ROOM 225
SCHENECTADY NY 12345

In re Application of	:	
BAGEPALLI, BHARAT S.	:	DECISION ON PETITION
Application No. 11/969,463	:	TO MAKE SPECIAL UNDER
Filed: Jan. 4, 2008	:	THE GREEN TECHNOLOGY
Attorney Docket No. 229524	:	PILOT PROGRAM
Title: WIND TURBINE TOWER JOINTS		

This is a decision on the petition under 37 CFR 1.102, filed December 21, 2009, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **DISMISSED**.

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

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction

requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

The requirement for a fee for consideration of the petition to make special for applications pertaining to Green Technologies has been waived. The petition lacks item(s) #1 and #5.

In regard to item 1, petitioner should note that this application has been classified in an area (USPC 415/003.100) that is not one of the eligible US classifications listed in section VI of the notice. Therefore, this application is not eligible for the Pilot Program. The classification limitations are purposefully made to be narrow for the Pilot Program; however, these may be expanded based upon the success of the Pilot Program. Petitioner may file a preliminary amendment that would cause this application to be classified elsewhere. However, while petitioner may suggest a classification (see, e.g., MPEP 708.02(a)(VII)(C)), the application will be assigned to the most appropriate classification based upon current U.S. classification guidelines. Furthermore, a petition for the Pilot Program should not be filed until and unless all of the requirements set forth in the Notice are met; i.e., a petition should not be filed for an application that is currently classified outside the eligible classifications set forth in the Notice.

In regard to item 5, petitioner should note that the instant petition includes a statement identifying the basis for the special status (i.e., whether the instant invention (1) materially enhances the quality of the environment or materially contributes to (2) development of renewable energy resources or energy conservation, or (3) greenhouse gas reduction) as required by sections II and III of the notice. However, as stated in 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. The statement provided fails to explain how the present invention materially contributes to the development of renewable energy resources or energy conservation.

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

Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856. The application is being forwarded to the Technology Center Art Unit 3745 for action in its regular turn.

/Henry C. Yuen/

Henry C. Yuen
Quality Assurance Specialist
Technology Center 3700

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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NOV 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Chiyo Horikawa et al :
Application No. 11/969,493 : ON PETITION
Deposited: January 4, 2008 :
Attorney Docket No. 011.2-11820-US02 :

This is in response to the "AMENDMENT AND RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION AND PETITION (UNDER 37 C.F.R. 1.57(a)) TO ENTER INADVERTENTLY OMITTED DRAWINGS" filed February 20, 2008, requesting that the above-referenced application be accorded a filing date of January 4, 2008. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on January 4, 2008. However, on January 24, 2008, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. In response, applicants timely filed this petition. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.55 or 1.78.

Petitioner's arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method claim and at least one 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.

---

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

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 CFR 1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

Please note that no petition is required and that the amendment must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

To the extent the instant petition requests a filing date of January 4, 2008 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded.

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

- **correction of the filing date to January 4, 2008**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

A separate amendment is required to add the drawings to this application. In the present application, the amendment to add the drawings is part of the petition. Applicant may request entry of the omitted figures by the filing of a preliminary amendment prior to the first office action. Entry of the amendment filed as part of the petition on February 20, 2008, will be determined by the examiner.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (571) 272-3208.

Anthony Knight
Supervisor
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,520	01/04/2008	Hideo ANDO	320474US2S DIV	1024

EXAMINER

7590 07/22/2008

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

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
07/22/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Refund Ref:
07/21/2008 0030058694

Credit Card Refund Total: $720.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 07/21/2008 NFARMER
01/07/2008 INTEFSW 00000696 11969520
02 FC:1111 -510.00 OP
05 FC:1201 -210.00 OP

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OFFICE OF PETITIONS

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

In re Application of	:	
O'Donnell et al.	:	DECISION ON PETITION
Application No. 11/969,540	:	TO WITHDRAW
Filed: January 4, 2008	:	FROM RECORD
Attorney Docket No. 70465.00041.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 is an outstanding Office action mailed November 13, 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.

Alicia Kelley
Petitions Examiner
Office of Petitions

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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	: 7583574	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/969,558	: OF WYETH
Filed	: 01/04/2008	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,569	01/04/2008	Parijat Dube	YOR920070375US1	1163

48915 7590 02/29/2008

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

EXAMINER	
FLYNN, NATHAN J	

ART UNIT	PAPER NUMBER
2154	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

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

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

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

In re Application of:
Parijat DUBE, et al.
Serial No.: 11/969,569
Filed: January 04, 2008
Docket: YOR920070375US1
Title: SYSTEMS, METHODS AND COMPUTER PRODUCTS FOR PROFILE BASED IDENTITY VERIFICATION OVER THE INTERNET

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 Jan 04, 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 **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 above, the pre-examination search must involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature. Applicant indicates **USPTO** as one of the database services; however, it is unclear if applicant uses **EAST, WEST, or other** database service. Clarification is required.

It appears that the search logic used for the "USPTO" database searches for class/subclass does not conform to the standard search format. The search document indicates using a format of **CCL/705/1** (search logic S2) to search class 705 subclass 1; this search term yields 0 hit. The proper search format should be **705/1.ccls.** or **705/1!.ccls.** which yields over 7400 hits. Therefore, it appears that all the class/subclass searches were invalid. Furthermore, in the Dialog database service, not that search logic S25 of (PROFILE)(5N)(BASED) is equivalent to (PROFILE or 5N or BASED) in the current BRS search format; it is unclear if the intent of search logic S25 is to use the **proximity operator** of NEAR5 in place of the term 5N rather than the OR operator. It is further unclear what search logic/operator was performed when the search logic indicates "Combined with set..." as shown in at least search logic S19-S30. Correction and/or clarification is required.

In both "USPTO" and Dialog services, term within **"quotation mark"** requires an exact match of that term; the search logic appears to un-necessarily limit the search terms by the excessive use of the quotation mark (term such as "activity-specific", "user classification", "identity verification" and so on). The Petitioner should also include related words or phrase such as **plurals** and **synonyms** to the above search terms in stead of looking for exact match. In this case, term such as "individuals" may be covered with (user$1 individual$1 personal), "classify" or "identification" may be covered with (classif$3 classification sort$3 categor$4 categorization group grouping), and so on. It is further noticed that the search logic **uses only logical AND operator**, such as ("profile"/"profile-based" and "identity" and "internet"), ("classify" and "activity" and "network"); such search logic do not appear to embrace the inventive concept or features of the claims.

Due to the deficiencies identified above, Petitioner should review the search document and update the search to rectify the deficiencies and/or provide any clarification if deemed necessary.

Regarding items 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, giving the claim the broadest reasonable interpretation. The search logic does not seems to include the inventive concept or features included in the in the claim language that covers the subject matter of the claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider individual features by themselves and combinations of features. The search should

cover the **broadest scope** encompassed by the claims **as well as** claims of **narrow and intermediate breadth**.

Specifically, the search logic does not include the relevant search terms for claimed features such as "extract values and attributes ...into data set", "calculating a score of the data sets", and "comparing the data sets to a database of activity-specific attributes" **of claim 1**; "the score is a utility function defined by applications" and "generating a dynamic profile ... score function" **of claims 2-3**; and "calculating values ... from the activity logs" **of claim 4**. It is noted that these features have been **identified as key features** in the Detailed Explanation of Patentability by applicant to distinguishing the instant claimed subject matter from the cited prior art references deemed most closely related to the claimed invention in the Examination Support Document.

Since the search logic does not include the relevant search terms mentioned above, the alleged patentable features and concept appear to have not been searched. The Petitioner is advised to review the all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the preexamination search covers these concepts, and update the search and/or provide any clarification if deemed necessary.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and item II 6.2-6.3; the Accelerated Examination Support Document (AESD) 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).

The AESD provides the mapping of some of the features in claims 1 and 4 (limitations (d)-(f) of claim 1 and (l) of claim 4, though cited, are not mapped) and omits the identification of limitations of claims 2-3 in their entirety. Petitioner then asserts that "all limitations" are absent from the cited references deemed to be most closely related; thus the claims are patentably distinguished over the references alone or in combination. It is assumed that the absent of claim feature mapping and claim discussion by the AESD indicates that such limitations are not taught by the references.

By identifying all limitations as those limitations that the reference(s) do not show or suggest, the petition fails to discuss the claimed limitations with respect to the references in accordance with the requirements of ***37 CFR 1.111 (b) and (c).*** That is, the petition does not specifically properly compare/contrast the claimed invention with respect to the **relevant teachings** in the prior art in the identified references.

In the renewed petition, Petitioner must provide a detailed discussion of the references, which discussion 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 [emphasis added]. A general allegation that "all of the references fail to at least teach ... and therefore patentably distinguish over each of the references alone or in combination" does not comply with the requirements of 37 CFR 1.111 (b) and (c).

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and items 6.5-6.6 above, the Accelerated Examination Support Document is required to provide a showing of where ***each***

limitation of each claim finds support under 35 USC 112, first paragraph, in the written description of the specification. The petitioner identifies the entire Fig. 4 and paragraph [0036] for claims 1-4 and fails to discuss features of ***each of the claim*** with corresponding support. The petition fails to provide support for each claim (***claim by claim***) and to identify each feature (***separately identified***) of each claim with corresponding support in the cited portions. Clarification and identification of support is required.

DECISION

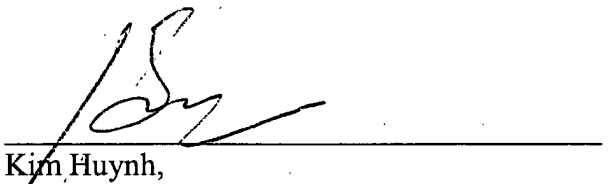
For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

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.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.



Kim Huynh,
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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.
11/969,569	01/04/2008	Parijat Dubc	YOR920070375US1	1163

48915 7590 04/28/2008

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

EXAMINER	
BATES, KEVIN T	

ART UNIT	PAPER NUMBER
2153	

MAIL DATE	DELIVERY MODE
04/28/2008	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 YORKTOWN
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of:
Parijat DUBE, et al.
Serial No.: 11/969,569
Filed: January 04, 2008
Docket: YOR920070375US1
Title: SYSTEMS, METHODS AND COMPUTER PRODUCTS FOR PROFILE BASED IDENTITY VERIFICATION OVER THE INTERNET

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

This is a decision on the renewed petition filed on Mar 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 Jan 04, 2008 was dismissed in the decision mailed on Feb 29, 2008.

The petitioner indicates in the instant petition that an updated search was performed and "the results of the search are provided on an Information Disclosure Statement filed on even date herewith". However, no new Information Disclosure Statement was filed. It is of the understanding that no new references were found as the result of the updated search.

MPEP 719.05 states that a *classification search* is defined as a complete search of all the documents in a particular subclass, and it is not limited by any text query or other means. It is noted that in some instances, the class/subclasses includes large number of hits (i.e. S1 includes 10,349, S2 includes 7552 hits, S3 includes 37,483 hits, S4 includes 40,697 hits, and S5 includes 5,030 hits). The search document does not indicate the class/subclass search was not limited by any search query; therefore, it is assumed t hat the classification search was performed in accordance with MPEP 719.05.

The renewed petition adequately addresses the support for the identification of claims limitations disclosed by the references and showing of where claim limitations finds support in the specification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.

Kim Huynh
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,624	01/04/2008	Heung Su CHO	AB-2579 US	1270

7590 04/13/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
04/13/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2009 NFARMER
01707/2008 INTEFSW 00001705 502257 11969624
02 FC:1111 510.00 CR

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EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	1	"60883443"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/13 18:02
S2	1	"20060086014"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/13 18:04
S3	1	"2006019839"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/13 18:05
S4	3	"2006019839"	US-PGPUB; USPAT; DERWENT	OR	ON	2009/07/13 18:05
S5	2	"20060196839"	US-PGPUB; USPAT; DERWENT	OR	ON	2009/07/13 18:06
S6	1	"60883443"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/13 18:50
S7	10	"4315504"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/14 08:31
S8	828	206/575	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:56
S9	0	caddy with media and holder with untelsil$1	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:57
S10	0	caddy with media adj holder with untensil$1	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:57
S11	0	caddy with media adj holder adj untensil$1	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:58
S12	0	caddy and media adj holder adj untensil$1	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:59

S13	0	caddy and media adj untensil$1	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:59
S14	0	caddy with media and untensil$1	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 15:59
S15	0	caddy with (media and untensil$1) adj holder	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 16:00
S16	2	caddy with (media and utensil$1) adj holder	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 16:00
S17	2	caddy with ((media or wrapping paper) and (utensil$1)) adj holder	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 16:03
S18	2	caddy with ((media or wrapping paper) and (utensil$1 or brush)) adj holder	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 16:03
S19	1	caddy with ((media or wrapping paper) and (utensil$1 or brush)) adj holder	DERWENT	OR	ON	2009/07/14 16:03
S20	0	206/232	DERWENT	OR	ON	2009/07/14 16:28
S21	2151	206/232	US-PGPUB; USPAT; USOCR; DERWENT	OR	ON	2009/07/14 16:28
S22	828	206/575	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/14 17:36
S23	1	"20060086014"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/14 17:37
S24	32904	clip with gift wrapper	US-PGPUB; USPAT	OR	ON	2009/07/15 08:27

S25	2219	206/389	US-PGPUB; USPAT	OR	ON	2009/07/15 08:29
S26	345990	clipwith gift wrap$3	US-PGPUB; USPAT	OR	ON	2009/07/15 08:34
S27	320813	clip with gift wrap$3	US-PGPUB; USPAT	OR	ON	2009/07/15 08:34
S28	32904	clip with gift wrappers	US-PGPUB; USPAT	OR	ON	2009/07/15 08:36
S29	32939	aligator clips with gift wrappers	US-PGPUB; USPAT	OR	ON	2009/07/15 08:38
S30	32829	aligator adj clip with gift wrappers	US-PGPUB; USPAT	OR	ON	2009/07/15 08:39
S31	32829	aligator adj clip and gift wrappers	US-PGPUB; USPAT	OR	ON	2009/07/15 08:39
S32	1559	206/214	US-PGPUB; USPAT	OR	ON	2009/07/15 08:43
S33	2254	206/373	US-PGPUB; USPAT	OR	ON	2009/07/15 08:54
S34	194	225/48	US-PGPUB; USPAT	OR	ON	2009/07/15 08:59
S35	2	"20070193917"	US-PGPUB; USPAT; JPO	OR	ON	2009/07/15 11:42
S36	1559	206/214	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/15 16:36
S37	1559	206/214	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/15 16:45
S38	828	206/575	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/15 16:48
S39	1651	206/425	US-PGPUB; USPAT; USOCR; FPRS; EPO; DERWENT	OR	ON	2009/07/15 18:06
S40	732	206/710	US-PGPUB; USPAT; JPO	OR	ON	2009/08/13 16:33
S41	156	292/54	US-PGPUB; USPAT; JPO	OR	ON	2009/08/13 16:37
S42	589	206/711	US-PGPUB; USPAT; JPO	OR	ON	2009/08/13 16:38

S43	118	292/44	US-PGPUB; USPAT; JPO	OR	ON	2009/08/13 16:44
S44	9	"2996775"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/04/28 10:44
S45	21	("0648928" | "1392134" | "1502605" | "2871080" | "3176662" | "3704051" | "4103145" | "4708509" | "4934527" | "5188227" | "5190169" | "5615782" | "D025839" | "D274767" | "D362022").PN. OR ("6575296").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/04/28 12:17
S46	44	("0648928" | "1392134" | "1502605" | "2871080" | "3176662" | "3704051" | "4103145" | "4708509" | "4934527" | "5188227" | "5190169" | "5615782" | "D025839" | "D274767" | "D362022").PN. OR ("6575296").URPN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/04/28 12:17
S47	866	206/575	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/04/28 12:20
S48	1	"11969673"	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	ON	2010/04/28 12:24

EAST Search History (Interference)

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

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NOV 19 2008

In re Application of :
John Barry Griswell Jr., et. al. :
Application No. 11/969,677 : DECISION ON PETITION
Filed: January 4, 2008 :
Attorney Docket No. AUS920041084US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 12, 2008, to revive the above-identified application.

The application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers mailed on January 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 six sheets of replacement drawings containing Figures 1-8; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,707	01/04/2008	Dennis A. Strickland	OKC01439	1473

7590 03/19/2008

Fellers, Snider, Blankenship, Bailey & Tippens
Suite 1700
100 North Broadway
Oklahoma City, OK 73102-8820

EXAMINER	
ART UNIT	PAPER NUMBER
3672	

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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Fellers, Snider, Blankenship, Bailey & Tippens
Suite 1700
100 North Broadway
Oklahoma City, OK 73102-8820

MAILED
FROM DIRECTORS OFFICE

MAR 19 2008

TECHNOLOGY CENTER 3600

In re application of
Dennis A. Strickland
Application No. 11/969,707
Filed: January 04, 2008
For: DOWNHOLE TOOL DELIVERY SYSTEM

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

This is a decision on the petition filed on March 13, 2008 to make the above-identified application special for Energy under 37 C.F.R. § 1.102(c) which is hereby treated as filed under 37 C.F.R. § 1.102(d)

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

REGULATION AND PRACTICE

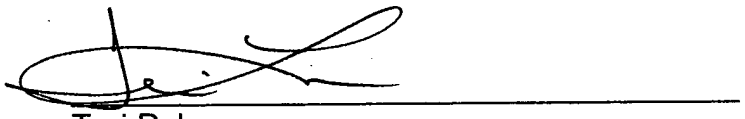
To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

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

The petition to make special for Energy under 37 C.F.R. § 1.102(d) is not acceptable at least because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on March 13, 2008, the petition must be considered under the new guidelines and thus is properly **DENIED**.

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

Any inquiry regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.



Teri P. Luu,
Quality Assurance Specialist
Technology Center 3600

TL/tl: 3/18/08

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/969,732	01/04/2008	Hideo Ando	SUTOSH.190AUS	1534

7590 11/19/2009

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

EXAMINER	
WELLINGTON, ANDREA L	

ART UNIT	PAPER NUMBER
2627	

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.

Patent Publication Branch
Office of Data Management

Refund Ref:
11/19/2009 2033076954

Credit Card Refund Total: $510.00

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Adjustment date: 11/19/2009 NFARMER
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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

MAILED

SEP 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Jia et al.	:	DECISION ON PETITION
Application No. 11/969,758	:	TO WITHDRAW
Filed: January 4, 2008	:	FROM RECORD
Attorney Docket No. 070545-1351	:	

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 26, 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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Holland & Hart, LLP
P.O. Box 8749
Denver, CO 80201

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary Considine	:	
Application No. 11/969,807	:	DECISION ON PETITION
Filed: January 4, 2008	:	TO WITHDRAW
Attorney Docket No. 57066.830001.US1	:	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 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert C. Ryan 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 Gary Considine 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: **Gary Considine**
Garri Productions, Inc.
20559 Chatsboro Drive
Woodland Hills, CA 91364

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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
11/969,807	01/04/2008	Gary Considine	57066.830001.US1

CONFIRMATION NO. 1674

POWER OF ATTORNEY NOTICE

26582
HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2009.

- 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.

/tswilliams/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of
Marc e. Davis, et al.
Application No. 11/969,815
Filed: January 4, 2008
Attorney Docket No. 324212022500

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **DISMISSED** as moot.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/969,834	01/04/2008	Seung Hee Han	2101-3422	1740

35884 7590 04/12/2010

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

EXAMINER	
BULLOCK JR, LEWIS ALEXANDER	
ART UNIT	**PAPER NUMBER**
2193	

NOTIFICATION DATE	DELIVERY MODE
04/12/2010	ELECTRONIC

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

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

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

uspto@lhlaw.com
ip.lhlaw@gmail.com
ip.lhlaw@live.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Lee, Hong, Degerman, Kang, & Schmadeka
660 S,. Figueroa Street, Suite 2300
Las Angeles, CA 90017

In re Application of: Han, S.
Application No. 11/969,834
Filed: January 04, 2008
For: Method for setting cyclic shift considering frequency offset

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

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed January 29, 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 **KIPO**, 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 **KIPO**, 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 **KIPO**, or

(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the **KIPO** 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 **KIPO** application that contains the allowable/patentable claims and the **KIPO** priority application claimed in the U.S. application.

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

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

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

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s)just prior to the "Decision to Grant a Patent" from each of the **KIPO** application(s) containing the allowable/patentable claim(s) or
ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the **KIPO** application is a first action allowance then no office action from the **KIPO** is necessary should be indicated on the request/petition form;

Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy; b. An English language translation of the **KIPO** Office action from (5)(a)(i)-(ii) above c. A statement that the English translation is accurate;

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

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

The petition is **GRANTED.**

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

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

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

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

/Mano Padmanabhan/

_____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mario Rabinowitz
715 Lakemead Way
Redwood City, CA 94062

MAY 14 2008

In re Application of: Mario Rabinowitz Serial No.: 11/969,882 Filed: January 5, 2008 Title: POLARIZATION LINKAGE OF HIGH DIELECTRIC CONSTANT PIVOTED PLANAR SOLAR CONCENTRATOR MIRRORS	:	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 January 5, 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 **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 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; and

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

REVIEW OF FACTS

The conditions set forth in I. 1-4 and II.1 are considered to have been met. However, the petition fails to comply with the all the conditions set forth in II. 2-6. For example, there was no statement of preexamination search or examination support document as set forth in II. 5 and II. 6, respectively.

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 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

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11969882	Confirmation Number	1865	Filing Date	2008-01-05
Attorney Docket Number (optional)		Art Unit	2872	Examiner	
First Named Inventor	Mario Rabinowitz				
Title of Invention	Polarization Linkage of High Dielectric Constant Pivoted Planar Solar Concentrator Mirrors				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Mario		Rabinowitz	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

(●) (1) I am an inventor in this application and I am 65 years of age, or more.

(○) (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Mario Rabinowitz/	Date (YYYY-MM-DD)	2008-05-16
Name	Mario Rabinowitz Age 71, born 1936-10-24		

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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
Mario Rabinowitz

Application No. 11969882

Filed: January 5,2008

Attorney Docket No.

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

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 17-MAY-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 30 2008

OFFICE OF PETITIONS

ALVIN R. WIRTHLIN
1828 EAST 1580 SOUTH
SPANISH FORK, UT 84660

In re Application of :

WILCOX, Clinton :
Application No. 11/969,884 : DECISION ON PETITION
Filed: January 5, 2008 : TO WITHDRAW
Attorney Docket No. **P1041US00** : 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 4, 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 Alvin R. Wirthlin, the sole attorney of record. Alvin R. Wirthlin has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Clinton Wilcox 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: **CLINTON WILCOX**
13395 BASS TRAIL
GRASS VALLEY, CA 95945

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.
11/969,955	01/07/2008	Yuki KOSAKA	NS-US075262	2103

7590 07/02/2009

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

EXAMINER	
WILLIAMS, ARUN C	

ART UNIT	PAPER NUMBER
2858	

MAIL DATE	DELIVERY MODE
07/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 07/02/2009 HFARHER
01/07/2008 INTEFSW 00007026 501836 11969955
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
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Alexandria, Virginia 22313-1450
www.uspto.gov

KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

Mail Date: 04/20/2010

Applicant	: Daniel Cassidy	: DECISION ON REQUEST FOR
Patent Number	: 7572212	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/969,960	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Dennis D. BELDEN, JR., et al	:	
Application No. 11/969,961	:	DECISION ON PETITION
Filed: January 7, 2008	:	TO WITHDRAW
Attorney Docket No. 3719/73US	:	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 2, 2008.

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

A review of the file record indicates that the power of attorney to Sand & Sebolt, has been revoked by the assignee of the patent application on October 9, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communication from the Office will be directed to the address indicated below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: INVUE SECURITY PRODUCTS INC.
15015 LANCASTER HIGHWAY
CHARLOTTE, NC 28277-2010

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.
11/969,967	01/07/2008	Jin-sung Lee	402-1009	2127

7590 03/20/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER	
GRAY, FRANCIS C	

ART UNIT	PAPER NUMBER
4148	

MAIL DATE	DELIVERY MODE
03/20/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

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01/07/2008 INTEFSW 00007231 11969967
02 FC:1111 -510.00 OP
04 FC:1202 -250.00 OP
05 FC:1201 -420.00 OP

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BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM NY 11580-6111

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AUG 0 4 2008

In re Application of :
BREED, David S. :
Application No. 11/969,970 : DECISION ON PETITION
Filed: January 07, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. **ITI-052** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 23, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the inventor's passport as evidence that David S. Breed is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231 All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2617 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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LAWRENCEVILLE NJ 08648

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APR 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Kohn, et al. :
Application No. 11/970,028 : ON PETITION
Deposited: January 7, 2008 :
Attorney Docket No. 70439.00021CON :

This is in response to the "PETITION UNDER 37 C.F.R. 1.57(a)(3)", filed March 20, 2008, requesting that the above-referenced application be accorded a filing date of January 7, 2008. This petition is being treated pursuant to 37 CFR 1.53(e)(2)[1].

Application papers in the above-identified application were deposited on January 7, 2008. However, on January 23, 2008, the Office of Patent Application Processing mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. In response, applicants timely filed this petition. Applicants request that the application be amended to include the inadvertently omitted drawings on the basis that the application as filed contained a prior benefit claim under 37 CFR 1.78.

Petitioner's arguments and evidence have been considered. However, a review of the application confirms that, as filed, the application contained at least one method claim. MPEP 601.01(f) provides that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to § 601.01(f), a drawing is not considered essential for a filing date. The instant application is entitled to a filing date without drawings present in the application.

---

[1] Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

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 CFR 1.57(a):

> [i]f an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application[.]

Please note that no petition is required and that the amendment must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17. Any amendment to include the inadvertently omitted drawing(s) will be considered by the examiner.

To the extent the instant petition requests a filing date of January 7, 2008 with no drawings present in the application, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee is being refunded to Deposit Account No. 50-1943.

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

- **correction of the filing date to January 7, 2008**;
- **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing** and
- **for issuance of a filing receipt.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,037	01/07/2008	Martin M. Fullam	POU920070187US1	2247

46429 7590 03/10/2008

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

EXAMINER	
MOFIZ, APU M	

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
03/10/2008	PAPER

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

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

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CANTOR COLBURN LLP-IBM POUGHKEEPSIE
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22nd Floor
Hartford CT 06103

In re Application of:
Martin M. Fullam
Serial No.: 11/970,037
Filed: January 7, 2008
Docket: POU920070187US1
Title: RETRIEVAL SYSTEM AND METHOD OF SEARCHING INFORMATION IN THE INTERNET

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

This is a decision on the petition filed on January 7, 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 **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 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.5.1, II.5.3, II.6.1, and II.6.4 above are considered to have been met. However, the petition fails to comply with conditions II.5, II.5.2, II.6.2, II 6.3, II.6.5 and II.6.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and item II.5 above, the classes/subclasses listed under the U. S. field of search have been included as part of a database search, and it is unclear whether the class/subclasses were used to perform a classified search, or a limited text search was performed within the class/subclasses. Clarification is required. Further, petitioner has not provided the date of the MicroPatent Database search. Correction is required.

Regarding item II.5.2 above, the database searches are too broad in that the search logic only uses broad concepts namely, "resource variable" and "state value", and does not encompass all of the features of the claims, such as "pruning.. ...by removing.... entries...when ...values..have returned to a normal value", "number of ..entries ..calculated", "adding an entry...if no entry yet exists", "updating the entry.....if the entry already exists", "adding no entry...if no entry yet exists", "removing the ...entry...if the entry already exists" , "one of returning a value..and returning a normal value...when the variable is not present" as recited in claim 1. Correction is required.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination Support Document (AESD) does not ***identify each claim limitation*** believed to be disclosed by the references. The Accelerated Examination Support Document only provides a general discussion of pertinent sections of each of the references discussed therein, without clearly identifying the corresponding claim limitations believed to be disclosed in each of the cited sections within each reference. Applicant should provide a ***claim-by-claim mapping*** of the pertinent subject matter disclosed in each of the references, ***specifically identifying each claim limitation*** and ***corresponding disclosure within the reference***, citing to specific relevant portions of each reference. 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/. Correction is required.

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

Further, regarding item II.6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims is patentable with the particularity required by 37 CFR 1.111(b) and (c). Specifically, 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out *how the language of the claims patentably distinguishes* them *from the references* does not comply with the requirements of this section." Petitioner only asserts that the references fail to teach or suggest *all of the limitations* in

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

claim 1 as but does not point out ***how the claim language patentably distinguishes*** the claim ***from the references*** deemed most closely related. Further, petitioner appears to indicate in the first paragraph of section 9(XC) of the Support Document that the references being disqualified under 35 U. S. C. 103(c) have not been discussed in the statement of patentability. Although petitioner has not clearly identified any of the cited references as being disqualified under 35 U. S. C. 103(c), petitioner is reminded that a statement of patentability must include a discussion of how the claims are patentable over all of the references with the particularity of required by 37 CFR 1.111(b) and (c). Correction is required.

With respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item II.6.5 above, the Accelerated Examination Support Document only discusses the disclosed invention by pointing to sections of the disclosure without referring to the claim limitations. Thus the Support Document fails to identify ***each claim limitation*** and the ***corresponding support*** in the specification, as required. Correction is required.

Finally, with respect to MPEP § 708.02(a)(I.)(I)(6) and item II.6.6 above, petitioner does not identify any of the cited references as disqualified under 35 USC 103(c). While absence of such a statement would usually be interpreted as representation by the petitioner that none of the cited references is disqualified under 35 USC 103(c), it is noted that in Section 9(C) of the Support Document, petitioner appears to assert that at least some of the references may be disqualified under 35 USC 103(c), and at least the Arimilli document (U. S. Patent 6,704,844) cited by the petitioner appears to be assigned to the assignee of the instant application. Petitioner is required to clearly identify the Arimilli patent as disqualified under 35 USC 103(c), if the Arimilli patent and the instant invention were commonly owned at the time of the instant invention, or provide a statement that they were not. In addition, petitioner is required to clearly identify any other cited references which may be disqualified under 35 USC 103(c).

DECISION

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

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

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719. If attempts to reach the undersigned are unsuccessful, Mano Padmanabhan, Quality Assurance Specialist, Technology Center 2100 can be reached at (571)272-4210.

Kakali Chaki, Quality Assurance Specialist, Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,037	01/07/2008	Martin M. Fullam	POU920070187US1	2247

46429 7590 06/13/2008

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

EXAMINER	
GAFFIN, JEFFREY A	

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
06/13/2008	PAPER

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

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CANTOR COLBURN LLP-IBM POUGHKEEPSIE
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In re Application of:
Martin M. Fullam
Serial No.: 11/970,037
Filed: January 7, 2008
Docket: POU920070187US1
Title: RETRIEVAL SYSTEM AND METHOD OF SEARCHING INFORMATION IN THE INTERNET

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 10, 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 January 7, 2008 was dismissed in the decision mailed on March 10, 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 Kakali Chaki, Quality Assurance Specialist, at (571) 272-3719.

/Kakali Chaki/

Kakali Chaki, WQAS 2120
Technology Center 2100
Computer Architecture, Software and Information Security

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MEHRMAN LAW OFFICE, P.C.
P.O. Box 420797
ATLANTA GA 30342

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SEP 09 2008

In re Application of	:	
Peter D. Warren	:	
Application No. 11/970,085	:	DECISION ON PETITION
Filed: January 7, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 4W17.1-020	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement 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 3731 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,092	01/07/2008	Dana M. Duffield	ROC920070332US1	2340

59452 7590 02/29/2008

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

EXAMINER
CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

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

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20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of:
Dana M. DUFFIELD, et al.
Serial No.: 11/970,092
Filed: January 07, 2008
Docket: ROC920070332US1
Title: SYSTEM FOR PROVIDING TRANSPARENT PARTICIPATION OF THIRD PARTIES IN INSTANT MESSAGING COMMUNICATION

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 Jan 07, 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 **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 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 above, the pre-examination search must involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature. Applicant indicates USPTO as one of the Database Services; however, it is unclear if applicant uses EAST, WEST, or other Database Service. Clarification is required.

It appears that the search logic used for database searches (USPTO, MicroPatent, Dialog) are not compliance with the BRS format, but rather using the **outdated** Messeger format; for example, the symbol **"!"** will **turn off plurals/equivalents** for the specific term and forces BRS to search only the term as specified. Therefore the search terms such as "**messag!**", "**communicat!**", and "**transparen!**" appear to be invalid search terms which may not yield any useful result. Furthermore, note that term within **"quotation mark"** requires an exact match of the term; it is unclear if petitioner intends to look for exact match of terminology within the quotation mark in the search logic.

In addition, the Petitioner should also include related words or phrase such as **plurals** and **synonyms** to the above search terms, for example: the words "message!" or "communicate!" may be covered with (messag$4 or communicat$4), the search string "instant messaging" may be covered with (real adj time or in adj progress or live or ongoing) near3 (messag$4 chat$4 text$4 email$3), the search string "chat session" may be covered with (instant adj2 messag$3 or conferenc$3 or chat$4 text$3) near3 "(interval period duration session), the term "plug-in" or "plug in" may also be covered with "addin, add-in, addon, or add-on", and the terms "text-based or "text based" seems un-necessarily limiting. It is further noticed that the search logic uses only logical AND operator (i.e. "instant messaging" and ('plug-in" or "plug in"), ("text-based" or "text based') and "chat session"), such search logic do not appear to embrace the inventive concept or features of the claims.

Based upon the claimed subject matter of the instant application, a search in the following classes and subclasses is recommended in order to provide full coverage of where the most pertinent references are most likely to be found: **class 709 subclass 206** (demand based messaging) under which the application is classified.

Due to the deficiencies identified above, Petitioner should review the search document and update the search to rectify the deficiencies and/or provide any clarification if deemed necessary.

Regarding items 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, giving the claim the broadest reasonable interpretation. The search logic does not seems to include the inventive concept or features included in the in the claim language that covers the subject matter of the claims using terms recognized in the art given their broadest reasonable interpretation. The search should consider individual features by themselves and combinations of features. The search should cover the **broadest scope** encompassed by the claims **as well as** claims of **narrow and intermediate breadth**.

Specifically, the search logic does not include the relevant search terms for claimed features such as "second chat session... being sub-chat", "third party to passively participant of the first chat session while actively communicating with the first chat party", and "second chat being transparent" **of claim 1**; "first chat party forwarding a message communicated by the third chat party ... to the second chat party while maintaining transparency of the third chat party" **of claim 4**; "first chat session ... through a first server and a second server", "second chat session... through the first server" **of claim 5**. It is noted that these features have been **identified as key features** in the Detailed Explanation of Patentability by applicant to distinguishing the instant claimed subject matter from the cited prior art references deemed most closely related to the claimed invention in the Examination Support Document.

Since the search logic does not include the relevant search terms mentioned above, the alleged patentable features and concept appear to have not been searched. The Petitioner is advised to review the all claim limitations, especially those asserted as patentable distinctions from the cited references to ensure the preexamination search covers these concepts, and update the search and/or provide any clarification if deemed necessary.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and items II 6.2- 6.6, the Accelerated Examination Support Document appears to **conform to the requirements** of MPEP § 708.02(a)(I.)(I).

In the event that new references surface due to the updated search, the petition should pays attention to especially to the discussion of section 9(C), the Detail Explanation of Patentability item II 6.3 to clearly point out (when applicable) claim limitations not taught by any of the references and limitations **which patentably distinguish** each claim over the references cited with the particularity required by 37 CFR 1.111(b) and (c).

DECISION

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

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

considered timely. Any request for reconsideration must address the deficiencies indicated above.

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.

Kim Huynh,
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,092	01/07/2008	Dana M. Duffield	ROC920070332US1	2340

59452 7590 03/31/2008

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

EXAMINER	
MAUNG, ZARNI	
ART UNIT	PAPER NUMBER
2151	

MAIL DATE	DELIVERY MODE
03/31/2008	PAPER

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

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

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

In re Application of:
Dana M. DUFFIELD, et al.
Serial No.: 11/970,092
Filed: January 07, 2008
Docket: ROC920070332US1
Title: SYSTEM FOR PROVIDING TRANSPARENT PARTICIPATION OF THIRD PARTIES IN INSTANT MESSAGING COMMUNICATION

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

This is a decision on the renewed petition filed on Mar 20, 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 Jan 07, 2008 was dismissed in the decision mailed on Feb 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.

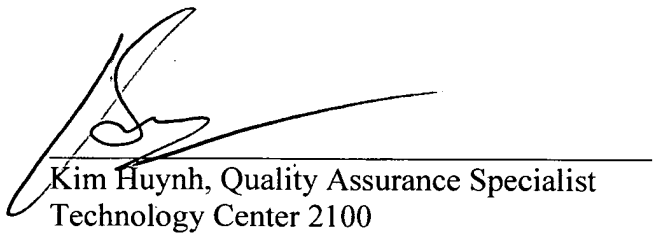
9. Proceedings Outside the Normal Examination Process:
If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated 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 the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.



Kim Huynh, Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re application of	:	DECISION ON REQUEST TO
Hideharu Nohara et al.	:	PARTICIPATE IN PATENT
Application No. 11/970,115	:	PROSECUTION HIGHWAY
Filed: January 7, 2008	:	PROGRAM AND PETITION
For: POWERTRAIN CONTROL	:	TO MAKE SPECIAL UNDER
APPARATUS AND METHOD	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed September 16, 2009, to make the above-identified application special.

The request and petition are **DISMSSED**.

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

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

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

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

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

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

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

The request to participate in the PPH pilot program and petition fail to include:

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

The claims of the US application do not sufficiently correspond or have been amended to sufficiently correspond to the allowable/patentable claims in the JPO application. Specifically, JPO claim 4 recites "a method for a powertrain including a transmission which shifts speeds by applying a first friction apply element that is in a released state and releasing a second friction apply element that is in an applied state." Correspond U.S. claim 9 requires no such transmission. It only requires "a powertrain control method" which doesn't necessarily have to include such a transmission.

The PPH program guidelines require that all claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claims in the JPO application. Since U.S. claim 9 has not been amended to sufficiently correspond to JPO claim 4, the PPH petition fails meet the guidelines of the PPH program.

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

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 9/18/09

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OCT 19 2009

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re application of	:	DECISION ON REQUEST TO
Hideharu Nohara et al.	:	PARTICIPATE IN PATENT
Application No. 11/970,115	:	PROSECUTION HIGHWAY
Filed: January 7, 2008	:	PROGRAM AND PETITION
For: POWERTRAIN CONTROL	:	TO MAKE SPECIAL UNDER
APPARATUS AND METHOD	:	37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 15, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

In light of the amendment filed October 15, 2009, the renewed request and petition now comply with the above requirements. Accordingly, the above identified application has been accorded "special" status.

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

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

/Teri P. Luu/
Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 10/16/09

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

Mail Date: 04/21/2010

Applicant	: KYUNG-GEUN LEE	: DECISION ON REQUEST FOR
Patent Number	: 7583576	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/970,131	: OF WYETH
Filed	: 01/07/2008	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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AEGIS TOWER
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SUITE 1100
CANTON, OH 44718-3615

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Dennis D. Belden, Jr., et al. :
Application No. 11/970,146 : DECISION ON PETITION
Filed: January 7, 2008 : TO WITHDRAW
Attorney Docket No. 3719/65US : 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 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sand & Sebolt has been revoked by the assignee of the patent application on October 9, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: INVUE SECURITY PRODUCTS, INC.
15015 LANCASTER HIGHWAY
CHARLOTTE, NC 28277-2010

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IP Advisors
Christopher Haigh
150 N. Michigan Avenue
Suite 2800
Chicago, IL 60601

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Jeffrey Schwindt :
Application No. 11/970,155 : DECISION ON PETITION
Filed: January 7, 2008 : TO WITHDRAW
Attorney Docket No. TEDCONT2 : 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 **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to IP Advisors has been revoked by the assignee of the patent application on October 22, 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: IPXtract
150 N. Michigan, Ste. 2800
Chicago, IL 60601

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WILMERHALE/NEW YORK
399 PARK AVENUE
NEW YORK NY 10022

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JAN 04 2010

In re Application of :
Application No. 11/970,156 :
Effective Date: January 07, 2008 : DECISION ON PETITION
Attorney Docket No. 145912400301 :
:

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

The petition is **GRANTED**.

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 25, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a preliminary amendment and required fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 25, 2008 is accepted as having been unintentionally delayed.

The Office has noted that a preliminary amendment has been submitted deleting references to figures 6O and 17C.

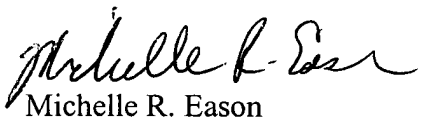
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into 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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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



Michelle R. Eason
Paralegal Specialist
Office of Petitions

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WHEELOCK CHAN LLP
P.O. BOX 61168
PALO ALTO CA 94306

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JAN 19 2010

In re Application of	:	
Application No. 11/970,156	:	Corrected Decison
Effective Date: January 07, 2008	:	DECISION ON PETITION
Attorney Docket No. 145912400301	:	
	:	

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

The petition is **GRANTED**.

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 25, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a preliminary amendment and required fees, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 25, 2008 is accepted as having been unintentionally delayed.

The Office has noted that a preliminary amendment has been submitted deleting references to figures 6O and 17C.

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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to the Office 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

O'MELVENY & MYERS LLP
IP&T CALENDAR DEPARTMENT LA-13-A7
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Monroe et al.	:	DECISION ON PETITION
Application No. 11/970,158	:	TO WITHDRAW
Filed: January 7, 2008	:	FROM RECORD
Attorney Docket No. 335,699-100	:	

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

The request is **NOT APPROVED** as involving a moot issue.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 34263 was revoked by the assignee of the patent application on July 8, 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 the applicants.

The application is currently awaiting examination in Technology Center AU 1616.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: SPENCER FANE BRITT & BROWNE LLP
1 NORTH BRENTWOOD BLVD.
SUITE 1000
ST. LOUIS MO 63105-3925

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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IP Advisors
Christopher Haigh
150 N. Michigan Ave.
STE. 2800
CHICAGO IL 60601

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Jeffrey Schwindt :
Application No. 11/970,168 : DECISION ON PETITION
Filed: January 7, 2008 : TO WITHDRAW
Attorney Docket No. TEDcont3 : 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.**

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

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address does not include a proper power of attorney nor is the address that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Robert J. CODY, et al :
Application No. 11/970,171 : DECISION ON PETITION
Filed: January 7, 2008 : TO WITHDRAW
Attorney Docket No. 021433-002110US : 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 13, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 James M. Heslin on behalf of the attorneys of record associated with Customer No. 20350.

The attorneys of record associated with Customer No. 20350 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT J. CODY
3924 VINCENT AVENUE SOUTH
MINNEAPOLIS, MN 55410

cc: PATTERSON, THUENTE, SKAAR
CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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.
11/970,190	01/07/2008	Klaus SCHULTES	320521US0CONT	2538

7590 07/24/2009

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

EXAMINER	
PENG, KUO LIANG	

ART UNIT	PAPER NUMBER
1796	

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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 07/23/2009 BPOWELL
08/21/2008 INTEF50 00021079 11970190
02 FC:1111 -510.00 OP
04 FC:1202 -250.00 UP

Adjustment date: 07/23/2009 BPOWELL
08/21/2008 INTEF50 00021079 11970190
02 FC:1111 -510.00 OP
04 FC:1202 -250.00 UP

Refund Ref:
07/23/2009 0030072536

Credit Card Refund Total: $760.00

AE Exp..: XXXXXXXXXX1008

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CANTOR COLBURN, LLP - ALSTOM POWER
20 Church Street,
22nd Floor,
Hartford, CT 06103

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MAR 02 2009

OFFICE OF PETITIONS

In re Application of :
Thomas P. MASTRONARDE :
Application No. 11/970,197 : DECISION ON PETITION
Filed: January 07, 2008 :
Attorney Docket No. W06/001-0(ALS-0018) S :

This is a decision on the petition, filed October 28, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Corrected Application Papers (Notice) mailed January 25, 2008, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 3, 2008.

Petitioner asserts that the Notice dated January 25, 2008, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

In regard to petitioner's statement - "copies of a substitute specification, including a clean copy and a marked- up copy showing all changes"; it is noted that these documents have not been received. Office has received only replacement drawings filed concurrently with the instant petition.

This application is being referred to the Office of Patent Applications Processing for further action on the response to the Notice filed concurrently with the instant petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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LATTICE SEMICONDUCTOR CORPORATION
5555 NE MOORE COURT
HILLSBORO, OR 97124-6421

Mail Date: 04/20/2010

Applicant	: Chih-Chuan Lin	: DECISION ON REQUEST FOR
Patent Number	: 7646643	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/970,212	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **12** 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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PATENT LAW OFFICES OF MICHAEL E. WOODS
19 VISTA MARIN DRIVE
SAN RAFAEL CA 94903-5205

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DEC 2 4 2008

In re Application of :
Michael J. Liebowitz, et al. :
Application No. 11/970,228 : ON PETITION
Filed: January 7, 2008 :
Attorney Docket No. 20066-7006 :

This is a decision on the petition under 37 CFR 1.137(b), filed by September 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts (Notice) mailed January 28, 2008. The Notice set a period for reply of two (2) months and required the statutory basic filing fee, search fee, examination fee, replacement drawings, an oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(f). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 29, 2008. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $75 basic filing fee, $255 search fee, $105, examination fee, replacement drawings, $65 surcharge, and a declaration under 37 CFR 1.63; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed September 17, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

GEORGE A. HERBSTER
40 BEACH STREET
SUITE 303
MANCHESTER, MA 01944

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MAR 3 0 2009

OFFICE OF PETITIONS

In re Application of :
Ori Herrnstadt :
Application No. 11/970,251 : ON PETITION
Filed: January 7, 2008 :
Attorney Docket No. H35-001 :

This is a decision on the petition, filed March 13, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

A review of the file record shows that a Request to Rescind was filed on March 13, 2009. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b). A courtesy copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) is enclosed.

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

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

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

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: blank copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) form

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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GEORGE A. HERBSTER
100 CUMMINGS CENTER
SUITE 213-C
BEVERLY, MA 01915

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of :
Ori Herrnstadt :
Application No. 11/970,251 :
Filed: January 7, 2008 :
Attorney Docket No. H35-001 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed April 3, 2009 under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 6, 2009. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

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 application is being referred to Technology Center AU 2165 for further processing.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: George A. Herbster
40 Beach Street, Suite 303
Manchester, MA 01944

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/970,251	01/07/2008	Ori Hermstadt	H35-001

CONFIRMATION NO. 2669

34021
GEORGE A. HERBSTER
100 CUMMINGS CENTER
SUITE 213-C
BEVERLY, MA 01915

NONPUBLICATION RESCISSION LETTER

Date Mailed: 04/23/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/30/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,260	01/07/2008	Jane Elizabeth McConnell	60102.0010US01	2680

7590 03/03/2008

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

EXAMINER	
CALDWELL, ANDREW T	
ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
03/03/2008	PAPER

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

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

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

In re Application of:
Jane Elizabeth MCCONNELL, et al.
Serial No.: 11/970,260
Filed: January 07, 2008
Docket: 60102.0010US01
Title: METHODS, SYSTEMS, AND COMPUTER-READABLE MEDIA FOR DISPLAYING HIGH RESOLUTION CONTENT RELATED TO THE EXPLORATION AND PRODUCTION OF GEOLOGIC RESOURCES IN A THIN CLIENT COMPUTER NETWORK

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 Jan 07, 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 **DISMISSED**.

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions I.1 to II.4 above are considered to have been met. However, the petition fails to comply with conditions II.5 and II.6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H) and items II.5.2 and II5.3 above, the pre-examination search must involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature and 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**.

It appears that the search logic is not of the standard BRS search format. The search document shows that the "?" symbol is used in most of search logic. The question mark "?" symbol used to indicate a single character, e.g., "adapt?r" will result in "adapter", "adaptar", or "adaptor." Searching for "block?" would retrieve "blocks," but will not retrieve the single term "block." Therefore search terms such as "modif?, authori?, authen?, identi?" will not yield meaningful result, and terms such as "display?, oil?, develop?, sector?" will un-necessarily limit the search logic. Applicant is requested review each search logic for proper search format, clarify how the search format used through out the search document (such as "?" "()" "w2" "5n") are appropriate, or conduct updated search using proper search format.

It appears that the terms "**oil, gas or petroleum**" are included in each search logic (S1 is used in combination with **every single search logic** in the document). It is unclear why the search should be limited by the terms oil, gas or petroleum since such feature does not appear to be within the scope of the claimed invention. The Petitioner should also include related words or phrase such as **plurals** and **synonyms** to the above search terms in stead of looking for exact match. In this case, term such as "high resolution" may be covered with (pixel, ppi, "pixel per inch", density).

Due to the deficiencies identified above, Petitioner should review the search document and update the search to rectify the deficiencies and/or provide any clarification if deemed necessary.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and item II 6.2; the Discussion in Section 9(B) of the Accelerated Examination Support Document (AESD) does not provide a sufficient identification or explanation specifying where each of the particular limitations of each claim

(**each limitation of each claim**) is found support in each of the cited references. In the discussion of the Hughes reference, applicant appears to omit the discussion of claims 2, 4, 5, 9, 11 13, 15-16 in their entirety. Furthermore, the **cursory discussions** of the Landmark and Sun references with respect to claims 1, 8, and 12 do not meet the identification of all the limitations in the claims as required in this section. The petitioner fails to specify how each of the particular limitations of claims 1, 8, and 12 correlates to a particular portion of the references and further omits the discussion of the dependent claims 2-7, 9-11 and 13-16 in their entirety with respect to the Landmark and Sun references. Furthermore, it is unclear why the petitioner directs the examiner to the discussion in Hughes in the Landmark reference.

The petitioner is requested to review Section 9(B) of the AESD and provide sufficient identification/explanation of how a particular claim limitation of each claim (claims 1-16) finds support in each of the references identified as deemed most closely related.

Regarding the requirement of MPEP § 708.02(a)(I.)(I) and item II 6.3; the Accelerated Examination Support Document (AESD) 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). In section 9(C) of the AESD, petitioner asserts that "all of the references" whether considered singularly or in reasonable combination, fail to teach or suggest the identified limitations; thus concluded that the claims are patentably distinguished over the references alone or in combination.

By identifying all limitations as those limitations that the reference(s) do not show or suggest, the petition fails to discuss the claimed limitations with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c). That is, the petition does not specifically properly compare/contrast the claimed invention with respect to the relevant teachings in the prior art in the identified references. A general allegation that "all of the references fail to at least teach ... and therefore patentably distinguish over each of the references alone or in combination" does not comply with the requirements. Petitioner fails clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited. The Office cannot infer or guess what petitioner believes the differences between the claims and the teachings of the prior art to be. For these reasons, the petition does not meet the requirement of MPEP § 708.02.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(5) and items 6.5-6.6 above, the Accelerated Examination Support Document is required to provide a showing of where ***each limitation of each claim*** finds support under 35 USC 112, first paragraph, in the written description of the specification.

The petition fails to provide support for each claim (***claim by claim***) and to identify each feature (***separately identified***) of each claim with corresponding support in the cited portions of the instant application and application 11/431,781 (which the instant application claims the benefit under title 35, United States Code 120) as required under the first paragraph of 35 U.S.C. 112.

For the instant application, petitioner fails to at least identify support for the limitations of the first server computer, second server computer and the third server computer (each perform a

different function) as required in claim 8. Furthermore, petitioner identify the step of "displaying the images ... on the client system" to cover claims 1-5, 9-11, and 13-16; it appears that claims 9-11 require the specific of the third server computer and each of the claims 1-5, 9-11, and 13-16 includes a unique display feature that are not separately identified.

For application 11/431,781, the Petitioner's statement that support in the aforementioned application may be found in Figure 3 and accompanying the description with respect to each claim limitation does not satisfy the requirement of 35 USC 112, first paragraph.

The Petitioner should review the applications based on which priority is claimed, point out any differences and show the exact locations (e.g. page no. or paragraph no.) within the specification of ***each such document*** providing support under 35 USC, first paragraph ***for each limitation*** of the instant claims.

DECISION

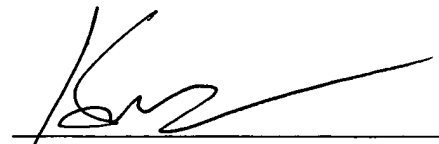
For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

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

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.



Kim Huynh,
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,260	01/07/2008	Jane Elizabeth McConnell	60102.0010USC3	2680

7590 04/28/2008

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

EXAMINER	
VU, VIET DUY	
ART UNIT	**PAPER NUMBER**
2154	

MAIL DATE	DELIVERY MODE
04/28/2008	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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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of:
Jane Elizabeth MCCONNELL, et al.
Serial No.: 11/970,260
Filed: January 07, 2008
Docket: 60102.0010US01
Title: METHODS, SYSTEMS, AND COMPUTER-READABLE MEDIA FOR DISPLAYING HIGH RESOLUTION CONTENT RELATED TO THE EXPLORATION AND PRODUCTION OF GEOLOGIC RESOURCES IN A THIN CLIENT COMPUTER NETWORK

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 Apr 03, 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 Jan 07, 2008 was dismissed in the decision mailed on Mar 03, 2008.

MPEP 719.05 states that a *classification search* is defined as a complete search of all the documents in a particular subclass, and it is not limited by any text query or other means. The search document does not indicate the class/subclass search was not limited by any search query; therefore, it is assumed t hat the classification search was performed in accordance with MPEP 719.05.

The renewed petition adequately addresses the support for the identification of claims limitations disclosed by the references and showing of where claim limitations finds support in the specification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final

disposition may occur more than twelve months from the filing of the application. In addition, Applicant is reminded that due to the dismissal of the previous petition submission, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Tod Swann, Quality Assurance Specialist, can be reached at (571) 272-3612.

Kim Huynh
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security

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DEC 0 9 2009

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of :
Jerry HEIN, et *al.* :
Application No. 11/970,295 : DECISION ON PETITION
Filed: January 7, 2008 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **6948P003D** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 30, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

In order for the assignee of the entire right and title 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 statement under 37 CFR 3.73(b) filed with the power of attorney on September 30, 2009 is defective in that the required documentary evidence, item (i) above, or the reel and frame number of the assignment were not provided.

Since each of the inventors executed and filed the present petition to revise, a courtesy copy of this decision is being mailed to each petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received September 30, 2009.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **JERRY HEIN**
2034 RAVOLI DRIVE
OXNARD, CA 93035

MANUEL GEORGE
1700 HARPER AVENUE
REDONDO BEACH, CA 90278

GERARD REPOSA
1423 WEST 244TH STREET
HARBOR CITY, CA 90710

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VALLEY FORGE, PA 19482-0980

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of :
ROZMUS, John J. :
Application No. 11/970,316 :
Filed: January 07, 2008 :
Attorney Docket No. **ROZ-100US1** :

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 January 07, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement by John J. Rozmus that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

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.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/09/10

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 11970328 Patent No.: 7588652

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

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

Comments: THE CHANGES DO NOT CHANGE THE SCOPE OF THE INVENTION.

Kathleen Mitchell — **SPE**

3634 — **Art Unit**

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LEWIS, RICE & FINGERSH, LC
ATTN: BOX IP DEPT.
600 Washington Ave.
Suite 2500
ST LOUIS, MO 63101

Mail Date: 04/20/2010

Applicant	: Jeffrey C. Merwin	: DECISION ON REQUEST FOR
Patent Number	: 7630839	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/970,398	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY, MO 64106-2140

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DEC 03 2008

In re Application of	:	
Timothy W. Klein, et al.	:	
Application No. 11/970,406	:	DECISION ON PETITION
Filed: January 7, 2008	:	TO WITHDRAW
Attorney Docket No. 5009209-102	:	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 14, 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 Kyle L. Elliot on behalf of all attorneys of record who are associated with customer No. 21129.

All attorneys/agents associated with the Customer Number 21129 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.

April M. Wise
Petitions Examiner
Office of Petitions

cc: WIRECO WORLDGROUP, INC.
12200 NW AMBASSADOR DR.
KANSAS CITY, MO 64163

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/970,406	01/07/2008	Timothy W. KLEIN	5009209-102

CONFIRMATION NO. 2981

POWER OF ATTORNEY NOTICE

21129
SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY, MO 64106-2140

OC000000033369317

Date Mailed: 12/01/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2008.

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

/amwise/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,420	01/07/2008	Oh Takahashi	04198C/LH	3013

1933 7590 03/21/2008

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
03/21/2008	PAPER

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

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TECHNOLOGY CENTER

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of: TAKAHASHI et al.
Application No. 11/970,420
Filed: January 7, 2008
For: DISPLAY PROCESSING DEVICE, DISPLAY PROCESSING METHOD AND DISPLAY CONTROL PROGRAM

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 26, 2008 to make the above-identified application special.

The request and petition are **DISMISSED**.

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

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

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

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

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

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

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

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

The request to participate in the PPH pilot program and petition fail to include:

A. Item 3 above. Specifically,

1) Claims 4 of the instant application differs in scope form the corresponding claim 4 of the Japanese allowed application. Claim 4 of the allowed Japanese application labels the various steps as "a first directional step", " a second directional step", a judgment step", etc., and recites certain functions being performed by the specific steps, thus providing a chronological order for the various steps recited, for example, "a judgment step for judging whether or not information which designates a display control method of said image and positional information formulated by at least latitude and longitude are included in text data stored in said image file when display control of said image is **directed by the second direction step;"**

2) Similar deficiencies are found in claim 5 of the instant application when compared with the allowed Japanese application claims.

Applicant is requested to review all the claims in view of the comments above to make sure that all the claims are in compliance with guidelines set forth above for a grantable petition to make special.

The Petition is **DISMISSED**.

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

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

Response must be faxed to Mano Padmanabhan at 571-273-4210 (RightFax) or 571-273-0308.

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

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

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

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.
11/970,420	01/07/2008	Oh Takahashi	04198C/LH	3013

1933 7590 05/19/2008

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
05/19/2008	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 16 2008

TECHNOLOGY CENTER 2100

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of: TAKAHASHI et al.
Application No. 11/970,420
Filed: January 7, 2008
For: DISPLAY PROCESSING DEVICE, DISPLAY PROCESSING METHOD AND DISPLAY CONTROL PROGRAM

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 26, 2008, and the request for reconsideration of adverse decision filed April 17, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

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

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

The request to participate in the PPH pilot program and 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 Mano Padmanabhan at 571-272-4210.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERMAN & GREEN, LLP
99 HAWLEY LANE
STRATFORD CT 06614

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of
Heinz-Wolfgang Krueger et al
Application No. 11/970,496
Filed: January 7, 2008
Attorney Docket No. 1064-013170-US (PAR)

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 7, 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 1, 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 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed RCE via a decision on the petition under 37 CFR 1.78(a)(3) filed with the above petition on April 7, 2010.

/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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PERMAN & GREEN, LLP
99 HAWLEY LANE
STRATFORD CT 06614

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of
Heinz-Wolfgang Krueger et al
Application No. 11/970,496
Filed: January 7, 2008
Attorney Docket No. 1064-013170-US

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 7, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to a prior-filed international application designating the United States of America (Application No. PCT/EP2006/064009 filed July 7, 2006), set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 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 Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § §120 amd 365(c) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. §§ 120 and 365(c) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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

Additionally, the reference to the foreign application need not be included in the reference for the benefit claim of the PCT application. The foreign application (German Application No. 10 2005 032 141.0) has been perfected in the declaration as required.

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

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

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

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

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 04 2010

OFFICE OF PETITIONS

PERMAN & GREEN, LLP
99 HAWLEY LANE
STRATFORD CT 06614

In re Application of :
Heinz-Wolfgang Krueger et al :
Application No. 11/970,496 : DECISION ON PETITION
Filed: January 7, 2008 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1064-013170-US (PAR) :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 21, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP2006/064009, filed July 7, 2006, as set forth in the accompanying amendment.

The petition is **GRANTED**.

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

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

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

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

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 the examiner of Technology Center Art Unit 2831 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

/KOC/
Karen Creasy
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
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/970,496	01/07/2008	2831	1460	1064-013170-US (PAR)	11	2

CONFIRMATION NO. 3186

CORRECTED FILING RECEIPT

2512
Perman & Green, LLP
99 Hawley Lane
Stratford, CT 06614

OC000000041413042

Date Mailed: 05/03/2010

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)

Heinz-Wolfgang Krueger, Buchholz/Nordheide, GERMANY;
Ralf Marcordes, Minden, GERMANY;

Assignment For Published Patent Application

AIRBUS DEUTSCHLAND GMBH, Hamburg, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 2512

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP2006/064009 07/07/2006

Foreign Applications

GERMANY 10 2005 032 141.0 07/07/2005

If Required, Foreign Filing License Granted: 05/03/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/970,496**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS FOR DETERMINING AN INTERFERING FIELD STRENGTH IN AN AIRCRAFT

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).

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.
11/970,567	01/08/2008	Dae Won An	5004-1-077	3351

7590 02/06/2009

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
ETIENNE, ARIO	

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
02/06/2009	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:
02/09/2009 0030066424

Credit Card Refund Total: $720.00

Am Exp..: XXXXXXXXXXX2007

Adjustment date: 02/09/2009 NFARMER
01708/2008 INTEFSW 00007459 11970567
02 FC:1111 -510.00 OP
04 FC:1201 -210.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

MATTHIAS SCHOLL
14781 MEMORIAL DRIVE
SUITE 1319
HOUSTON TX 77079

COPY MAILED

DEC 28 2009

OFFICE OF PETITIONS

In re Application of :
Shirong LOU :
Application No. 11/970,589 : DECISION ON PETITION
Filed: January 08, 2008 :
Attorney Docket No. HZLR-00101-UUS :

This is a decision on the petition under 37 CFR 1.182, filed December 14, 2009, requesting expedited consideration of the petition under 37 CFR 1.137(b) filed December 14, 2009, to revive the above-identified application.

The petition under 37 CFR 1.182 for expedited consideration is **GRANTED.**

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 21, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of July 21, 2008 is accepted has being unintentionally delayed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Masaki Tsubokura	: DECISION ON REQUEST FOR
Patent Number	: 7573542	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/970,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **31** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,621	01/08/2008	Guowen JIANG	CU-6336 WWP	3444

7590 06/10/2010

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER	
BULLOCK JR, LEWIS ALEXANDER	
ART UNIT	**PAPER NUMBER**
2193	
MAIL DATE	**DELIVERY MODE**
06/10/2010	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: 06/14/2010 MFARRER
01/08/2008 INTEFSU 00000336 12040D 11970621
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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P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,669	01/08/2008	Nathan Fontenot	AUS920070575US1	3508

59401 7590 04/08/2008
CANTOR COLBURN LLP - IBM AUSTIN
20 Church Street
22nd Floor
Hartford, CT 06103

EXAMINER	
AN, MENG AI T	

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
04/08/2008	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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04/07/2008

Duane P. Minley
20 Church Street, 22nd Floor
Hartford, Ct 06103

In re Application of: Nathan Fontenot et al.
Serial No.: 11/970,669
Filed: 01/08/2008
Docket: AUS920070575US1
Title: METHODS AND COMPUTER PROGRAM PRODUCT FOR OPTIMIZING BINARIES WITH CODING STYLE FORMALIZATION

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

This is a decision on the petition filed on January 08, 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 **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-II4, 5.1-, 6.1, and 6.6 above are met. However, the petition fails to comply with conditions II5.2-II5.3, II6.2-II6.3 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. The text searches provided in the Pre-examination Search document fails to cover the combination of the claimed features of warnings and hints. No synonyms for the claimed features of "warnings", "hints" or of what may be considered an error. Finally, the text search fails to include terms relevant to the features of claim 2.

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 items II.6.2-II.6.3 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 and 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). In section 9(B) of the accelerated examination support document, Petitioner lists paragraphs 32, 39, and 41 of the Opperman reference for disclosure of the claimed feature of "providing warnings to indicate where the source code deviates..." and paragraphs 3 and 36 for disclosure of the claimed feature of "providing hints to at least one of a compiler and a linker...". However, in paragraph 9(C), petitioner indicates claims 1-3 are patentable over Opperman reference as the reference fails to disclose the same features discussed above. Correction and clarification 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. While Section 9(D) of the accelerated examination support document identifies sections of the specification for support of the claimed invention, this section does not specify which claimed feature is disclosed in each identified section. Clarification and identification of support is required for each claim.

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[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 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.
11/970,669	01/08/2008	Nathan Fontenot	AUS920070575US1	3508

59401 7590 06/24/2008

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

EXAMINER	
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ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
06/24/2008	PAPER

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

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

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06/23/2008

Duane P. Minley
20 Church Street, 22nd Floor
Hartford, Ct 06103-3207

In re Application of: Nathan Fontenot et al.
Serial No.: 11/970,669
Filed: 01/08/2008
Docket: AUS920070575US1

Title: METHODS AND COMPUTER PROGRAM PRODUCT FOR OPTIMIZING BINARIES WITH CODING STYLE FORMALIZATION

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 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**.

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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/26/2010

Applicant	: Jeffrey T. Flynn	: DECISION ON REQUEST FOR
Patent Number	: 7625252	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/970,670	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LAWRENCE R. YOUST
2001 ROSS AVENUE
SUITE 3000
DALLAS TX 75201

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SEP 15 2008

In re Application of	:	
Dusterhoft et al.	:	
Application No. 11/970,682	:	ON PETITION
Filed: January 8, 2008	:	
Attorney Docket No. 026114.0125 PTUS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a signed Oath/Declaration, the basic filing fee, the search and examination fees, the additional claims fee and the late surcharge, (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.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,690	01/08/2008	Seung Sik JEONG	103-1128	3552

7590 04/02/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER	
NGUYEN, JUDY	
ART UNIT	PAPER NUMBER
2854	
MAIL DATE	DELIVERY MODE
04/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 04/03/2009 APOWELL
01/08/2008 INTEFSW 00009228 11970690
02 FC:1111 -510.00 OP

Adjustment Date: 04/03/2009 APOWELL
02/06/2009 INTEFSW 00000325 12109595 12366869
02 FC:2111 270.00 CR
05 FC:2202 702.00 CR
06 FC:2201 330.00 CR

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Date Mailed: September 21, 2009
Patent No. :7,559,139 B2
Ser. No. :11/970704
Issued : February 3, 2009
Inventor(s) : Kwan-Hee Lee
Title : METHOD FOR MANUFACTURING A PROBE UNIT

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1540

Michael J. Scheer
Dickstgein Shapiro LLP
2049 Century Park East Ste. 700
Los Angeles, CA 90067-3109

MD/mt

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DICKSTEIN SHAPIRO LLP
1633 BROADWAY
NEW YORK NY 10019

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,559,139 :
Issue Date: 14 July, 2009 :
Application No. 11/970,704 : ON PETITION
Filed: 8 January, 2008 :
Attorney Docket No. T2171.0257 :

This is a decision on the petition filed on 23 October, 2009, under 37 C.F.R. §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 6 November, 2008, and the location of recordation as Reel/Frame 021795/0228.

Petitioner requests issuance of a certificate of correction the identification of the Assignee(s) to "**YAMAICHI ELECTRONICS CO. (Tokyo, JP)**" of the substance and in the form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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[1]) 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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/970,713	01/08/2008	Woo-jung SHIM	104-1353	3589

7590 03/09/2009

STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER	
NGUYEN, JUDY	

ART UNIT	PAPER NUMBER
2854	

MAIL DATE	DELIVERY MODE
03/09/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 03/10/2009 BPOWELL
01/09/2009 INTEFSW 00009507 11970713
02 FC:1111 -510.00 OP
04 FC:1202 -2600.00 OP
05 FC:1201 -630.00 OP

Replp. Ref: 03/10/2009 BPOWELL 0016023100
DA#:012300 Name/Number:11088939
FC: 9284 $500.00 CR

Adjustment date: 03/10/2009 BPOWELL
01/08/2008 INTEFSW 00009507 11970713
02 FC:1111 -510.00 OP
04 FC:1202 -2600.00 OP
05 FC:1201 -630.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,720	01/08/2008	Yasuaki OKADA	L7016.08101	3599

7590 02/22/2010

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, NW., Suite 1200
WASHINGTON, DC 20006

EXAMINER	
DEVITO, ALEX T	
ART UNIT	**PAPER NUMBER**
2856	
MAIL DATE	**DELIVERY MODE**
02/22/2010	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.

Betty Powell

Patent Publication Branch
Office of Data Management

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Vinh X. Bui	: DECISION ON REQUEST FOR
Patent Number	: 7570016	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/970,746	: OF WYETH
Filed	: 01/08/2008	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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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	: Charan S. Lota	: DECISION ON REQUEST FOR
Patent Number	: 7658432	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/970,756	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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MHKKG / GLOBALFOUNDRIES
P.O. BOX 398
AUSTIN TX 78767-0698

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of :
Calvin Watson et al. :
Application No. 11/970,782 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. 6363-07300 :

This is a decision on the petition, filed April 28, 2010, to withdraw the holding of abandonment which is being treated under 37 CFR 1.181

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

This application became abandoned on October 23, 2009, for failure to file a timely response to a Restriction Requirement mailed September 21, 2009, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed April 21, 2010.

Petitioner argues however that a response was filed on October 22, 2010 with a one month extension of time.

A search of the application file and the USPTO records reveals that in fact, a response was filed on October 22, 2010 and the extension of time fee was properly posted.

Accordingly, the response was timely and the Notice of Abandonment mailed April 21, 2010 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2827 for treatment of the response filed October 22, 2009 as appropriate.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLEMENTS BERNARD PLLC
1901 ROXBOROUGH ROAD
SUITE 250
CHARLOTTE NC 28211

MAILED

JUL 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Mario SPADAVECCHIA	:	
Application No. 11/970,819	:	DECISION ON PETITION
Filed: February 8, 2008	:	TO WITHDRAW
Attorney Docket No. 4760	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 28, 2010.

The request is **APPROVED**.

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

The request was signed by Russell M. Racine on behalf of the attorneys of record associated with Customer No. 22474.

The attorneys of record associated with Customer No. 22474 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below, until otherwise properly notified.

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

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

cc: MARIO SPADAVECCHIA
9991 NE 118TH TERRACE
BRONSON, FL 32621-7711

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/970,819	01/08/2008	Mario Spadavecchia	4760

CONFIRMATION NO. 3764

22474
Clements Bernard PLLC
1901 Roxborough Road
Suite 250
Charlotte, NC 28211

POWER OF ATTORNEY NOTICE

OC000000042581409

Date Mailed: 07/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/28/2010.

- 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.

/dcgoodwyn/

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

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LARSON NEWMAN ABEL & POLANSKY LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

COPY MAILED
JAN 21 2009

In re Application of :
Loos, et al. :
Application No. 11/970,832 : ON PETITION
Filed: January 8, 2008 :
Attorney Docket No. 1057-0004-C1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 16, 2008.

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

The application was held abandoned due to failure to timely file a reply to the Notice to File Corrected Application Papers, mailed March 27, 2008. This Notice set an extendable period for reply of two (2) months to submit replacement drawings. No reply having been received, the application became abandoned on May 28, 2008. The Office mailed a Notice of Abandonment on December 1, 2008.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and

docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of his replies docketed for the due date of May 27, 2008. An entry for the instant application is absent, supporting the conclusion that the March 27, 2008 Notice was not received.

In view thereof, the petition is granted.

The application is being forwarded to the Office of Patent Application Processing for re-mailing of the March 27, 2008 Notice to File Corrected Application Papers, setting a new period for response.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

COPY MAILED

MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Hardacker, Rolf Toft	:	
and Ryuichi Iwamura	:	DECISION REFUSING STATUS
Application No. 11/970,858	:	UNDER 37 C.F.R. § 1.47(a)
Filed: January 8, 2008	:	
Attorney Docket No. 50W8700.02	:	

This is a decision on the PETITION TO INVOKE RULE 47 filed January 8, 2008.

The petition under 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).

The above-identified application was filed on January 8, 2008, with a declaration executed by inventor Hardacker, the signature page for a declaration executed by inventor Toft, and a declaration executed on behalf of inventor Iwamura by the assignee. Accompanying these declarations was this petition, requesting that the Office accept the declaration signed by the assignee on behalf of the non-signing inventor. Applicant asserts that inventor Iwamura by his conduct in not responding to the request to sign the declaration after having been presented with the application papers has refused to join in the

application. In support thereof, applicant submits the declaration of Jennifer Grygiel, the person who presented the papers to inventor Iwamura.

Preliminarily, applicant is reminded that filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b). As joint inventors Hardacker and Toft have joined in the application, and as such are available, the assignee is not permitted to make application on behalf of the non-signing inventor. Applicant must make application pursuant to 37 CFR 1.47(a), not 37 CFR 1.47(b).

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

Requirements (3) and (4) have been satisfied. The required petition fee of $200 has been charged to petitioner's Deposit Account, as authorized. The petition includes a statement of the last known address of non-signing inventor Iwamura.

However, the petition is not grantable because it does not satisfy requirement (2) and in this instance, as a consequence requirement (1).

The declaration submitted is not acceptable. It is not in compliance with 37 CFR 1.47(a) or 1.63.

37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, requires all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application."

In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.
>
> See MPEP § 409.03(e).

In this instance, applicants have offered a declaration executed by patent attorney Rogitz on behalf of non-signing inventor Iwamura. This is not acceptable. The application was filed with declarations executed by inventors Hardacker and Toft. As inventors Hardacker and Toft are available, any declaration must be signed by these available inventors on behalf of themselves and on behalf of inventor Iwamura. (It is further noted that the 47(b) declaration did not identify all inventors as required by 37 CFR 1.63).

Moreover, it is noted that the declarations submitted by the available inventors are defective. It is permissible for the inventors to sign separate declarations. Nonetheless, as stated in MPEP 605.04(a), an oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Accordingly, applicants must submit to the Office each declaration in its entirety and not just the signature pages of some.

In this instance, we have received one complete declaration identifying inventors Hardacker, Toft and Iwamura, and one signature page executed by inventor Toft. The complete declaration as presented (and signed) by each inventor should be submitted to the Office. Further, the complete declaration errs in identifying inventor Iwamura as the fourth joint inventor. At the same time the declaration executed by attorney Rogitz identifies inventor Iwamura as the first and sole inventor. On

request for reconsideration, rule 47 applicant should submit complete declarations executed by all of the inventors or by the available joint inventors on behalf of the non-signing inventor identifying the correct number of inventors.

In addition, with respect to requirement (1), the petition includes proof that inventor Iwamura has refused to join in the application, after having been presented with the application papers. However, given the deficiencies in the declarations described above, it further cannot be concluded that inventor Iwamura's failure to sign such a declaration, even after having been presented with the application papers, constitutes refusal to join in the application. For example, inventor Iwamura could not sign a declaration which identified himself as either sole or fourth inventor and thus, had he been presented with such a failure to respond would not constitute a refusal to join in the application. Rather, it may merely reflect an unwillingness to sign a defective declaration. A bona fide attempt must be made to present inventor Iwamura with all of the application papers, including a proper declaration, before his failure to respond will be inferred as a refusal. The renewed petition must include a statement of facts by a person with firsthand knowledge. This statement must also state the basis for the conclusion that inventor Iwamura refuses to join in the application.

Applicant may consider presenting the papers by certified mail return receipt to get confirmation that the papers are being presented to the inventor at a correct address. It is unclear whether the failed FedEx delivery attempts are due to the non-signing inventor no longer being at the address used. Information verifying the accuracy of the address would aid in consideration of the renewed petition.

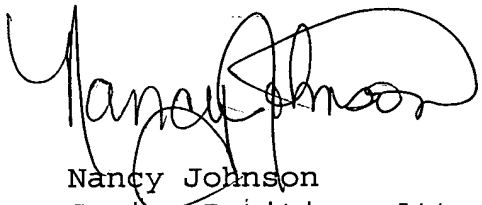
Further correspondence with respect to this matter should be addressed as follows:

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

By 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

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ALEXANDRIA, VA 22313-1450
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Paper No.

ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of :
Robert Hardacker, Rolf Toft :
and Ryuichi Iwamura : DECISION ACCORDING STATUS
Application No. 11/970,858 : UNDER 37 C.F.R. § 1.47(a)
Filed: January 8, 2008 :
Attorney Docket No. 50W8700.02 :

This is a decision on the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a) filed May 2, 2008.

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

The above-identified application was filed on January 8, 2008, with a declaration executed by inventor Hardacker, the signature page for a declaration executed by inventor Toft, and a declaration executed on behalf of inventor Iwamura by the assignee. Accompanying these declarations was this petition, requesting that the Office accept the declaration signed by the assignee on behalf of the non-signing inventor. Applicant asserts that inventor Iwamura by his conduct in not responding to the request to sign the declaration after having been presented with the application papers has refused to join in the application. In support thereof, applicant submits the declaration of Jennifer Grygiel, the person who presented the papers to inventor Iwamura.

By decision mailed March 5, 2008, the initial PETITION TO INVOKE RULE 47 filed January 8, 2008 was dismissed. The declaration was not acceptable as it was signed by attorney Rogitz on behalf of the non-signing inventor rather than by available joint inventors Hardacker and Toft on behalf of themselves and on behalf of non-signing inventor Iwamura. Further, applicant

failed to submit each declaration in its entirety as presented to each inventor. Moreover, applicant failed to submit adequate proof that the non-signing inventor could not be reached or found, after diligent effort, or refused to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings).

On instant renewed petition, applicant submits acceptable declarations.

Moreover, applicant submits adequate proof that inventor Iwamura cannot be reached or found after diligent effort, or has refused to sign the oath or declaration after having been presented with the application papers. On instant renewed petition, applicant submits proof that they made a bona fide attempt to present all of the application papers to the inventor by certified mail return receipt. This showing supports a conclusion that inventor Iwamura is unavailable to join in the application within the meaning of 37 CFR 1.47(a). Specifically, the evidence shows that the United States Postal Service presented a certified mail notice at the last known address of Inventor Iwamura. However, inventor Iwamura did not respond to the USPS's notice and did not claim the package containing the application papers. There is no indication by the USPS that there is any error in the address used for inventor Iwamura.

The declarations filed May 2, 2008 have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MR. RYUICHI IWAMURA
11864 Paseo Lucido
#2083
San Diego, CA 92128

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of :
Robert Hardacker, Rolf Toft :
and Ryuichi Iwamura :
Application No. 11/970,858 : LETTER
Filed: January 8, 2008 :
Attorney Docket No. 50W8700.02 :

Dear Mr. Iwamura:

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

ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,885	01/08/2008	Joe Sterling Whitworth	117742-156389	3880

25943 7590 03/28/2008

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EXAMINER	
RIVIERE, HEIDI M	

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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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In re application of : **DECISION ON PETITION**
Whitworth et al. : **TO MAKE SPECIAL FOR**
Application No. 11/970,885 : **NEW APPLICATION**
Filed: January 8, 2008 : **UNDER 37 CFR 1.102**
For: SYSTEM, METHOD, AND APPARATUS FOR COLLABORATIVE WATERSHED RESTORATION PROJECTS

This is a decision on the petition filed on January 8, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

An accelerated examination support document must include:

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

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

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

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

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

each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

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

REVIEW OF FACTS

Preliminarily, Applicant's "Statement Under 37 CFR 1.102(c)(2)" will be addressed. Applicant's request to have the petition fee waived is not deemed persuasive since the requirements for showing that the subject matter of the instant application materially enhances the quality of the environment of mankind by contributing to the restoration and/or maintenance of basic life-sustaining natural elements have not been met.

MPEP 708.02[R-6] states the following:

> V. ENVIRONMENTAL QUALITY
>
> The U.S. Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. All applicants desiring to participate in this program should petition that their applications be accorded "special" status. The petition under 37 CFR 1.102 must state that special status is sought because the invention materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements. No fee is required for such a petition. See 37 CFR 1.102(c). If the application disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially enhance the quality of the environment. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may enhance the quality of the environment.

Applicant's invention itself does not actively or directly restore the environment. Instead, it is directed toward project management related to watershed restoration activities. Indirectly, Applicant's invention might hypothetically play a role in managing watershed restoration activities more efficiently; however, this potential benefit does not rise to the level of materially enhancing the quality of the environment. As per Applicant's authorization to charge the petition fee if the

petition under 37 CFR 1.102 is not deemed to be persuasive (found in Applicant's "Statement Under 37 CFR 1.102(c)(2)"), the petition fee will be charged.

The petition in this case fails to comply with conditions II.5, II.5.2, II.6.3, and II.6.5.

Condition II.5 requires that, 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 be clearly indicated. In section 2, on pages 3-5 of the Pre-Examination Search Document, Applicant lists the database service used as both Dialog and Google Scholar, yet the listed files searched appear to be Dialog files. Applicant should clarify which database service was used to search the specific files listed in this section of the Pre-Examination Search Document.

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 search queries are limited to the watershed restoration field; however, it should be noted that the underlying focus of the invention is project management. Applicant should consider analogous fields of use in which project management is similarly applicable (e.g., construction projects, long-term business planning, etc.). Additionally, many of the limitations recited in independent claims 1, 13, and 18 are not reflected in any of the searched queries. Applicant's searches focus on an overview of watershed restoration, project management related thereto, compliance monitoring, and integration of GIS technology. Omitted concepts include the details of a user computing device to receive input. The funding details of independent claim 18 are not searched either. Looking at the Dialog search (S1-S3 on page 5 of the Pre-Examination Search Document), the exact search logic used should be presented. Listing KEYWORD and IN TITLE followed by terms to be searched is not proper search syntax in Dialog. In order to limit search terms to the title field, the terms should be queried as (A or B)/ti. There is no "keyword" field in Dialog. Running Applicant's listed S1 in Dialog would yield hits; however, the following lines show how Dialog processes this search:

```
s KEYWORD(watershed? or ecosystem? or environmental?) and (GIS or
geographical information or geospatial information)
            0    KEYWORD(WATERSHED?
         5962    ECOSYSTEM?
            0    ENVIRONMENTAL?)
         3655    GIS
            0    GEOGRAPHICAL INFORMATION
            0    GEOSPATIAL INFORMATION
S5       5962    S KEYWORD(WATERSHED? OR ECOSYSTEM? OR ENVIRONMENTAL?)
AND (GIS OR GEOGRAPHICAL INFORMATION OR GEOSPATIAL INFORMATION)
```

Dialog appears to search all words/phrases in the alternative. Additionally, "keyword(watershed?" and "environmental?)" are each separately searched as single words. Consequently, the Dialog searches would likely not yield the most relevant Dialog references in relation to the claimed invention.

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] wherein said receiving project data occurs after said receiving the selection of the at least one watershed restoration action.

[Claim 3] providing an estimate of project costs for designing and/or implementing the at least one watershed restoration action based at least in part on the project data;

identifying funds from at least one funding source of one or more funding sources that can be allocated to designing and/or implementing the at least one watershed restoration action based at least in part on funding criteria of the at least one funding source; and

providing an indication, to the user computing device, of the identified funds, including which funds may be allocated to each watershed action of the at least one watershed action.

[Claim 4] wherein the one or more watershed restoration actions include an invasive weed removal action, an instream work restoration action, and/or a habitat reconnection restoration action.

[Claim 5] generating at least one layer of a geographical information system (GIS) to correlate local resources to various geographical locations; and

identifying one or more local resources to facilitate design and/or implementation of the at least one watershed restoration action based at least in part on the at least one layer of the GIS.

[Claim 6] automatically generating one or more completed permit applications directed to one or more regulatory agencies for approval of the at least one watershed restoration action based at least in part on the project data.

[Claim 7] generating project design criteria for the at least one watershed restoration action; and

receiving, from another user computing device associated with a project coordinator, a certification that the at least one watershed restoration action is completed in accordance with the project design criteria.

[Claim 8] generating one or more restoration credits based at least in part on the at least one watershed restoration action and on said receiving of the certification.

[Claim 9] generating a user report to provide a user with information on a status of the at least one watershed restoration action based at least in part on said receiving of the certification; and

transmitting the user report to the user.

[Claim 10] identifying one or more project coordinators based at least in part on the geographical location;

selecting a project coordinator from the one or more project coordinators;

generating a restoration project contract based at least in part on the project data; and

facilitating electronic execution of a restoration project contract by a landowner of the geographical location.

[Claim 11] wherein said identifying of one or more watershed restoration actions is based at least in part on factors identified as limiting watershed recovery and funding criteria of one or more funding sources and the method further comprises:

generating a first layer of a geographical information system (GIS) to correlate factors identified as limiting watershed recovery to various geographical locations; and

identifying the one or more watershed restoration actions based at least in part on the geographical location and the first layer of the GIS.

[Claim 12] generating a second layer of the GIS to correlate the funding criteria of the one or more funding sources to various geographical locations; and

identifying the one or more watershed restoration actions based at least further in part on the second layer of the GIS.

[Claim 14] wherein the controller is further configured to receive the project data after receiving the selection of the at least one watershed restoration action.

[Claim 15] wherein the controller is further configured to provide an estimate of project costs for designing and/or implementing the at least one watershed restoration action, to identify funds from at least one funding source of the one or more funding sources that can be allocated to the designing and/or implementing of the at least one watershed restoration action based at least in part on funding criteria of the at least one funding source, and to provide an indication of the identified funds, including which funds may be allocated to each watershed action of the at least one watershed action.

[Claim 16] wherein the controller is configured to identify funds based at least in part on matching fund components of a first funding source of the at least one funding source.

[Claim 17] wherein the GIS includes a first layer to correlate factors identified as limiting watershed recovery to various geographical locations, a second layer to correlate funding criteria of the one or more funding sources to various geographical locations, and a third layer to correlate local resources for design and/or implementation of watershed restoration actions to various geographical locations.

[Claim 19] wherein the provided funding criteria includes matching fund components, landowner eligibility, geographical location eligibility, and/or watershed restoration action eligibility, and the controller is further configured to automatically identify funds based at least in part on the provided funding criteria.

[Claim 20] wherein the controller is further configured to provide project design criteria to the user computing device based at least in part on the project information; and to facilitate certification, from a local coordinator, that a design and/or implementation of the watershed restoration action complies with the project design criteria.

It is noted that Applicant submits claims 2-12, 15, 16, 17, 19, and 20 to be further patentable beyond the limitations recited in the independent claims. It is especially important that Applicant more comprehensively search all of the claim features asserted to be patentably distinguishing before such assertions of patentability may be made with greater confidence. This is also true for the features in the independent claims that were not fully searched, as discussed above.

A recommended search might be executed in all databases of East with the following search queries:

L1: ((manag$5 or monitor$3 or track$3) NEAR5 (project$1 or activit$3 or task$1 or resource$1 or job or jobs)) SAME (construction$1 or watershed or restoration$1 or business$2)

L2: L1 AND (cost$1 or expense$1 or spend$3 or spent or loss$2)

L3: L2 AND (fund$3 or income$1 or incoming or (flow$3 NEAR2 in) or in-flow$3 or subsid$5)

L4: L3 AND (GIS or geographic$4 or location$1 or locat$3 or region$4 or GPS)

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 that Applicant explicitly identify whether or not each of the dependent claims is separately patentable beyond the limitations contained in the independent claims, and if so, how. Applicant has not met this requirement for dependent claim 14.

As per Condition II.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 is required. While support was properly shown for each claim limitation of some of the claims, some claims were not fully mapped out limitation by limitation (e.g., see at least claims 3, 9, and 12). Each limitation of each claim was not mapped to where support is found in parent application no. 60/992,257.

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

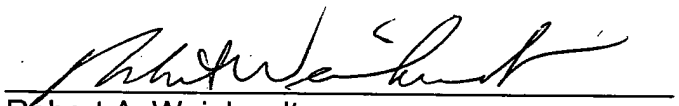
DECISION

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/3/22/08

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In re application of: : **DECISION ON PETITION**
Whitworth et al. : **TO MAKE SPECIAL FOR**
Application No.: 11/970,885 : **NEW APPLICATION**
Filed: January 8, 2008 : **UNDER 37 CFR 1.102**
For: SYSTEM, METHOD, AND APPARATUS FOR COLLABORATIVE WATERSHED RESTORATION PROJECTS

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 **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.

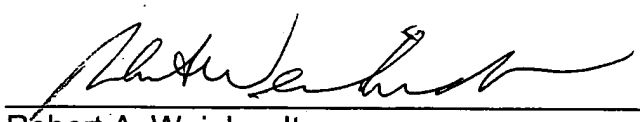
9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated 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,
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DIRECTOR'S OFFICE
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CANTOR COLBURN, LLP - IBM ARC DIVISION
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Hartford CT 06103

In re Application of:
SYEDA-MAHMOOD, TANVEER, et al.
Serial No.: 11/970,946
Filed: January 08, 2008

Title: **METHOD AND SYSTEM FOR FINDING STRUCTURES IN MULTI-DIMENSIONAL SPACES USING IMAGE-GUIDED CLUSTERING**

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

This is a decision on the petition filed on January 08, 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 **DISMISSED**.

REGULATION AND PRACTICE

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

I. Conditions Regarding the Application:

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

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

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

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

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

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

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

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

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

The preexamination search must:

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

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

5.3. encompass the disclosed features that may be claimed.

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

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

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

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

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

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

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

REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II. items 5.2, 5.3, 6.2, 6.3, and 6.5.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The 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: 345/698.

Regarding the requirement in item 6.2 above, the Accelerated Examination Support Document is deficient because section 9(B) titled "Identification of Limitations Disclosed by References" provides only a description of each reference cited with respect to the claims. However, the petition fails to identify all of the limitations in the claims of the application that are disclosed by patent and the non patent literature cited and specifying where each limitation is disclosed by each cited reference as required by item 6.2. There is no identification of any claim limitations of the application that are disclosed by the cited references or specifying where the claim limitations are disclosed in the cited reference. Clarification is required.

Regarding the requirement in item 6.3 above, the Accelerated Examination Support Document is deficient because the section titled "Detailed Explanation of Patentability of the Claims over the Cited References" fails to provide a "detailed explanation of how each claim is patentable over ***each*** of the references cited with particularity required by 37 CFR 1.111(b) and (c)" (emphasis added). Petitioner has provided a detailed explanation of how claim 1 is patentable over the references cited. Regarding dependent claims 2-5, petitioner makes a statement that "dependent claims 2-5 each include limitations that would define over the references deemed most closely related if claim 1 was found unpatentable". However, petitioner has failed to provide a detailed explanation of how claims 2-5 are patentable over the references cited. Therefore it is presumed that claims 2-5 stand or fall together with the patentability of claim 1. **Since petitioner has only argued the patentability of the broadest, independent claim and no separate reasons for patentability are argued in regard to dependent claims 2-5, it is presumed that petitioner believes that all claims not separately argued for patentability stand or fall together. 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.**

Regarding the requirement in item 6.5 above, the "Accelerated Examination Support Document", is deficient because section 9(E) fails to include a showing of where ***each limitation of each of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of the instant specification. Petitioner provides a showing of where each limitation identified as elements a-d has support in the written description of specification for claim 1. However, petitioner is silent as to a showing of support in the written description of the specification for each limitation of dependent claims 2-5. A showing of where ***each limitation of each of the***

claims finds support under the first paragraph of 35 USC 112 in the written description for dependent claims 2-5 is required.

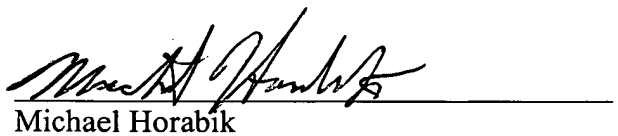
DECISION

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

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

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

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



Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
SYEDA-MAHMOOD, TANVEER. et al,
Serial No.: 11/970,946
Filed: January 08, 2008

Title: **METHOD AND SYSTEM FOR FINDING STRUCTURES IN MULTI-DIMENSIONAL SPACES USING IMAGE-GUIDED CLUSTERING**

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 29, 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 April 03, 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.

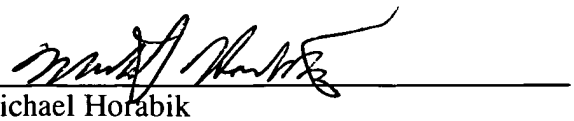
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,966	01/08/2008	Dengfeng Gao	ARC920070043US1	4008

67232 7590 02/29/2008

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20 Church Street
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Hartford, CT 06103

EXAMINER	
MOFIZ, APU M	

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

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

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Hartford CT 06103

In re Application of: Dengfeng et al	:	
Serial No.: 11/970,966	:	
Filed: January 8, 2008	:	DECISION ON PETITION TO
Docket: ARC920070043US 1	:	MAKE SPECIAL FOR NEW
Title: CORRELATION AND PARALLELISM AWARE MATERIALIZED VIEW RECOMMENDATION FOR HETEROGENOUS, DISTRIBUTED DATABASE SYSTEMS	:	APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 8, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The 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, 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, 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.

With respect to item II.5.2 above, petitioner is required to provide keywords and phrases encompassing limitations of each claim including those deemed by the applicant as patentable features distinguishing the claimed invention from the cited prior art used in any database search. Applicant states in the "Explanation of Patentability" sections in the Examination Support Document that claims 2-5 include limitations that would define over the references deemed most closely related if claim 1 was found unpatentable. However, the search logic does not include the features deemed patentable from the dependent claims, such as "dominance relationship based on resource time" of claim 1, "parsing by a front-end query processor" of claim 2, "what-if-analysis" of claim 3, "candidate materialized views" of claim 4, etc. **Petitioner should review all claim limitations, especially those believed to be patentable distinctions from the cited references to ensure that the search covered these concepts, and update the search and/or provide any clarifications**. Examples of a properly documented search are available at http://www.uspto.gov/web/patents/accelerated/ae_presearch_sample.doc.

Regarding the requirement of MPEP § 708.02(a)(I.)(I)(3) and item 6.2 above, the Accelerated Examination support Document only provides a general discussion of the references that were cited to be pertinent to the claimed invention, and recites some limitations with respect to independent claim 1 as not being taught by the references. However the limitations recited do not correspond to the claim language of the limitations recited in claim 1. Applicant states that "with respect to claim 1, Adya et al. teaches a method of identifying a set of indexes for a given workload on a database...comprising..." and "with respect to claim 1, Li et al. teaches a method of evaluating queries in distributed databases with materialized query tables (MQT) comprising...". However, claim 1 of application is directed to "A method for generating a materialized view recommendation for at least one back-end server that is connected to a front-end server in a heterogeneous, distributed database system, the method comprising:...". There is no indication as to how the methods of Adya et al. and Li et al. correlate to the method recited in claim 1 of the instant application. It is also not clear whether the claimed invention was searched since the limitations listed as being taught by either of the references do not correspond to the language of the claimed invention. Applicant should provide a claim-by-claim mapping of the pertinent subject matter disclosed in each of the references, **specifically identifying each claim limitation and corresponding disclosure within the reference, citing to specific relevant portions of each reference**. Examples can be found on USPTO website, using the link http://www.uspto.gov/web/patents/accelerated/ and clicking on "Sample Accelerated Examination Support Document".

Further, in the Detailed Explanation of Patentability section, applicant states that he cited references do not anticipate the claimed invention, since they do not disclose "providing MQT recommendations ....". However, MQT is not part of the claim language. A correlation between

MQT and the claim language has not been established. Further, applicant states that the references identified above fail to at least teach or suggest several aspects of the claimed invention and, in particular, fail to teach or suggest the claimed steps (c), (d), and (e) of claim 1. However, limitations of claims are compared as a whole to the reference. It is not clear if the references teach a portion of the limitation being addressed. Any reference which teaches any portion of the limitation must be so identified even if the reference does not teach the entirety of the limitation.

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

Further, regarding item 6.3 above, the statement of patentability does not provide a detailed explanation of how each of the claims are patentable with the particularity required by 37 CFR 1.111(b) and (c). With respect to claim 1, petitioner states that the cited references do not teach or suggest the claimed steps (c), (d), and (e) of claim 1, without pointing out the specific distinctions believed to render the claims patentable over the cited references. An explanation furthermore needs to be made to specify whether the dependent claims are separately patentable beyond the limitations contained in the independent claims, and if so how, or a statement made that the dependent claims are not separately patentable. Specifically, petitioner does not point out any claim limitations believed to patentably distinguishing claimed invention from the cited references for dependent claims 2-5, though applicant states that each of these claims include limitations that would define over the cited references. The USPTO website has an example of the proper manner of documenting limitations taught by cited art for an Accelerated Examination Support Document at: http://www.uspto.gov/web/patents/accelerated/.

Finally, with respect to the requirement of MPEP § 708.02(a)(I.)(I)(5) and item 6.5 above, the Accelerated Examination Support Document only identifies specific figures and portions of text in the specification as providing support under 35 U.S.C. 112, First paragraph, but fails to identify each claim limitations and the corresponding support in the cited portions of specification. Clarification and identification of support is required for each claim limitation.

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.

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) 272-4210. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

Mano Padmanabhan
WQAS Technology Center 2100

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/970,966	01/08/2008	Dengfeng Gao	ARC920070043US1	4008

67232 7590 05/09/2008

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Hartford, CT 06103

EXAMINER	
GAFFIN, JEFFREY A	

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
05/09/2008	PAPER

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In re Application of: Dengfeng et al	:	
Serial No.: 11/970,966	:	
Filed: January 8, 2008	:	DECISION ON PETITION TO
Docket: ARC920070043US 1	:	MAKE SPECIAL FOR NEW
Title: CORRELATION AND PARALLELISM AWARE MATERIALIZED VIEW RECOMMENDATION FOR HETEROGENOUS, DISTRIBUTED DATABASE SYSTEMS	:	APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the renewed petition filed on March 27, 2008, to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d). The original petition, submitted on January 8, 2008, 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 Mano Padmanabhan at (571) 272-4210.

Mano Padmanabhan
WQAS Technology Center 2100
Computer Architecture, Software, and Information Security

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FEB 29 2008

CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

In re Application of: Alan Hocknell et al.
Application No.: 11/971,013
Filed: January 8, 2008
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 January 8, 2008 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, 6.4 and 6.6 above are considered to have been met. However, the petition fails to comply with conditions II: 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.

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.

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.

In the instant case petitioner failed to address Kim D489,105. Petitioner should address each limitation and where it is (or state that it is not) found in Kim '105.

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: W*ith respect to claim 1, wherein the golf club head is partitioned by a plurality of vertical planes into a first section, a second section and a third section, the first section extending from the front wall to a first vertical plane located 1.0 inch rearward of the front wall of the golf club head, the third section extending from a second vertical plane located 4.0 inches rearward of the front wall of the golf club head to the rear wall, and the second section positioned between the first section and the third section, wherein the second section has less than 20% of the mass 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.

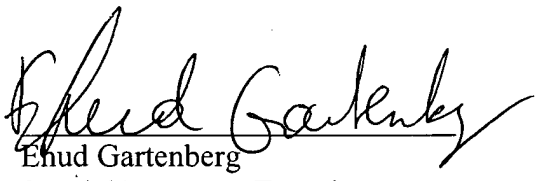
DECISION

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 04 2008

In re Application of: Alan, Hocknell, et al.
Application No.: 11/971,013
Filed: January 8, 2008
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 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 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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NIXON PEABODY, LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 20004-2128

MAILED

NOV 0 2 2009

OFFICE OF PETITIONS

In re Application of
Shinji MAEKAWA, et *al.*
Application No. 11/971,085
Filed: January 8, 2008
Attorney Docket No. **740756-3155**

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 October 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 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 2813 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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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of :
Allen Hirsh, et al. :
Application No. 11/971,104 : DECISION ON PETITION
Filed: January 8, 2008 : TO WITHDRAW
Attorney Docket No. CRYO-005/01US 306782-2031 : 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 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 request was signed by Thomas A. Blinka on behalf of all attorneys of record who are associated with customer No. 58249. All attorneys/agents associated with the Customer Number 58249 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no pending Office actions at the present time.

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

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

cc: ALLEN HIRSH
12111 PARKLAWN DRIVE
ROCKVILLE, MD 20852

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/971,104	01/08/2008	Allen Hirsh	CRYO-005/01US 306782-2031

CONFIRMATION NO. 4243

POWER OF ATTORNEY NOTICE

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

OC000000037850754

Date Mailed: 09/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2009.

- 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.

/amwise/

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

DECISION ON PETITION ROUTING SLIP

Application No.: 11971108

Art Unit: 2821

For Director's Secretary:

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

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

For TECH Support Staff:

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/971,108	01/08/2008	Juhan Kim		4255

58471 7590 03/10/2008

JUHAN KIM
5890 W. WALBROOK DR.
SAN JOSE, CA 95129

EXAMINER	
HOANG, HUAN	
ART UNIT	PAPER NUMBER
2827	
MAIL DATE	DELIVERY MODE
03/10/2008	PAPER

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

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

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JUHAN KIM
5890 W. WALBROOK DR.
SAN JOSE CA 95129

MAR 10 2008

In re Application of: KIM, JUHAN Serial No.: 11/971,108 Filed: January 8, 2008 Title: HIGH-SPEED DRAM INCLUDING HIERARCHICAL READ CIRCUITS	: : : : : :	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 January 8, 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 **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, it appears the search outlined in the petition omitted critical search areas by not searching in class 365 subclasses 63, 189.02, 189.05, 203 and 210 at a minimum to include pre-charge, data latch or buffer, interconnections, multiplexer and reference cell. 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 6.1, 6.2 and 6.5. The support document fails to include an information disclosure statement (IDS) in compliance with 37 CFR 1.98 as set forth in the subsection 6.1. The cited reference Asacura et al, "A Hierarchical Bit-line Architecture with Flexible Redundancy and Block Compare Test for 256Mb DRAM," VLSI Circuits, Digest of Technical Papers, May 1993 was not submitted. Any renewed petition should include a copy of this reference.

Regarding the requirements of section II, subsection 6.2, the support document 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 does not specifically identify the limitations of the claims which are taught by the references and where the limitations are disclosed in the cited references. The support document mentions a memory cell array and a multiplexer but fails to discuss where these limitations are disclosed in the references. It is unclear which limitation of the claim is disclosed, how many of the limitations are disclosed and where the limitation is disclosed in the cited references. For these reasons, the petition does not meet the requirement of section II, subsection 6.2.

Regarding the requirements of section II, subsection 6.5, the petition is required to provide a showing of where ***each limitation*** (italics added) of the claims finds support under 35 USC 112, first paragraph in the ***written description*** (italics added) of the specification. Petitioner neither clearly show support for each limitation, nor point out the limitations in the written description of

the specification. Petitioner does refer to a figure number and elements, providing additional narration on the function of the device, rather than indicating where such features are found in the written description and specification. For these reasons, the petition does not meet the requirement of section II, subsection 6.5.

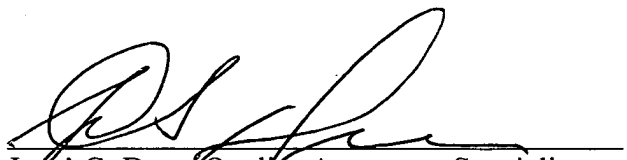
DECISION

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.
11/971,108	01/08/2008	Juhan Kim		4255

7590 07/20/2009

JUHAN KIM
5890 W. WALBROOK DR.
SAN JOSE, CA 95129

EXAMINER	
HOANG, HUAN	

ART UNIT	PAPER NUMBER
2827	

MAIL DATE	DELIVERY MODE
07/20/2009	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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 07/21/2009 BPOWELL
01/09/2008 INTEFSW 00003099 11971108
02 FC:2111 -255.00 OP

Adjustment date: 07/21/2009 BPOWELL
01/09/2008 INTEFSW 00003099 11971108
02 FC:2111 -255.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

COPY MAILED

JUN 12 2008

In re Application of	:	
Tsai	:	DECISION ON PETITION
Application No.: 11/971,148	:	
Filed: 8 January, 2008	:	
Attorney Docket No.: 87002088.242037	:	

This is the decision in response to the petition under 37 C.F.R. §1.47(b), filed on 8 January, 2008.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor has not replied and thus constructively has refused to sign/join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an

applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

CONCLUSION

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

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

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

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

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

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

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

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

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JUN 12 2008

KUO-SHIH TSAI
NO. 5, LANE 7, ALLEY 808
SOUTH ROAD
HSIN-CHU CITY 300
TAIWAN ROC

In re Application of	:	
Tsai	:	COMMUNICATION
Application No.: 11/971,148	:	
Filed: 8 January, 2008	:	
Attorney Docket No.: 87002088.242037	:	

Dear Kuo-Shih Tsai:

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

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

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

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

While telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s). Moreover, the Office cannot neither advise you nor recommend Counsel in this matter.

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

Counsel of Record:
BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

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

§1.2 Business to be transacted in writing.

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

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Paper No.

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

MAILED

AUG 31 2009

OFFICE OF PETITIONS

In re Application of :
Barrett et al. : DECISION ON PETITION
Application No. 11/971,167 : PURSUANT TO 37 C.F.R.
Filed: January 8, 2008 : § 1.78(a)(6)
Attorney Docket No. CONTAINMENT :
BERM BRACKET :

This is a decision on the petition under 37 C.F.R. § 1.78(a)(6), filed June 22, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 C.F.R. § 1.78(a)(6)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. Since the statement contained in this petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, an amendment to the specification, and a statement that is being construed as the proper statement of unintentional delay. The second and third requirements of Rule 1.78(a)(6) have been satisfied.

Regarding the third requirements of Rule 1.78(a)(6), this pending nonprovisional application was filed on January 8, 2008, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/879,063, which was filed on January 8, 2007, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

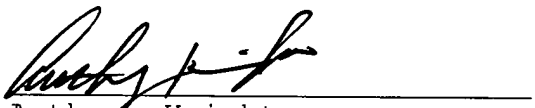
Accordingly, before the petition under 37 C.F.R. § 1.78(a)(6) can be granted, a renewed petition under 37 C.F.R. § 1.78(a)(6)

and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §§ 1.121 and 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Any renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the deciding official.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Anthony Knight
Supervisor
Office of Petitions

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of :
Barrett et al. : DECISION ON RENEWED PETITION
Application No. 11/971,167 : PURSUANT TO 37 C.F.R.
Filed: January 8, 2008 : § 1.78(a)(6)
Attorney Docket No. CONTAINMENT :
BERM BRACKET :

This is a decision on the renewed petition under 37 C.F.R. § 1.78(a)(6), filed September 4, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in the concurrently filed amendment.

This renewed petition is **GRANTED**.

A petition under 37 C.F.R. § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 C.F.R. § 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 C.F.R. § 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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 C.F.R.

§ 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.

An original petition under 37 C.F.R. § 1.78(a)(6) was filed on June 22, 2009, along with the petition fee, an amendment to the specification, and a statement that was construed as the proper statement of unintentional delay. The amendment to the specification which was submitted concurrently with the original petition was not entered. The original petition was dismissed via the mailing of a decision on August 31, 2009, which indicated that the second and third requirements of Rule 1.78(a)(6) had been satisfied.

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 slightly from the language required by 37 C.F.R. § 1.78(a)(6)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(6)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this renewed petition, Petitioner has included a statement that is being construed as the proper statement of unintentional delay. Petitioner has further included an acceptable amendment to the specification.

As such, the first requirement of 37 C.F.R. § 1.78(a)(3) has been met.

All of the above requirements having been satisfied, the late claim for priority pursuant to 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35

U.S.C. § 119(e) and 37 C.F.R. §§ 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on renewed petition.

This application is being forwarded to Technology Center Art Unit 3781 for consideration by the examiner of the claim under 35 U.S.C. § 120 of the prior-filed provisional application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1]

Anthony Knight
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/971,167	01/08/2008	3781	460	17308.2.1	21	3

CONFIRMATION NO. 4356

CORRECTED FILING RECEIPT

22913
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Date Mailed: 10/27/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Andrew N. Barrett, Coeur d'Alene, ID;
Craig G. Dolsby, Spokane, WA;
Doug Combs, Spokane, WA;

Assignment For Published Patent Application

BERG COMPANIES INC., Spokane, WA

Power of Attorney: The patent practitioners associated with Customer Number 022913

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/879,063 01/08/2007

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/971,167**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

CONTAINMENT BERM BRACKET

Preliminary Class

220

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

Mail Date: 04/20/2010

Applicant	: Yoshikazu SUITA	: DECISION ON REQUEST FOR
Patent Number	: 7588356	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/971,175	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

MAILED

JUN 0 1 2010

OFFICE OF PETITIONS

In re Application of :
GZARA, Kais :
Application No. 11/971,276 : DECISION ON PETITION
Filed: January 09, 2008 : TO WITHDRAW
Attorney Docket No. **GZAR-001** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 16, 2010.

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 NEUSTEL LAW OFFICES, LTD. has been revoked by the assignee of the patent application on April 15, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SCHLUMBERGER OILFIELD SERVICES**
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of
Thomas A. Osborne

Application No. 11971364

Filed: January 9,2008

Attorney Docket No. 8627/1843 (PA-6109-RFB)

: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 05-MAR-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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CANTOR COLBURN LLP - IBM ROCHESTER DIVISION
20 Church Street
22nd Floor
Hartford CT 06103

MAIL

FEB 13 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Timothy P. Clark, et al.
Serial No.: 11/971,376
Filed: January 9, 2008

Title: **DIGITAL CAMERA WITH IMAGE TRACKING 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 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 **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: 382/ 107 and 128.

In addition to the search logic already employed by applicant, the examiner has also recommended that applicant include search logic for variations on the "profile markers" in all new search areas; as well as in the areas previously searched because the search is unduly limited to specific claim language; not the overall invention in the disclosure with possible claim language synonyms. The examiner has also noted that no search logic has been provided to show a search was conducted for limitations directed to a "notification system", or "audible" or "visual" alarms and reasonable variations thereof. Applicant is also 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 is merely suggestive and is not all-encompassing. Similarly, the search for prior art that teaches "activation" of an energy saving mechanism seems insufficient.

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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MAR 17 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANTOR COLBURN LLP - IBM ROCHESTER DIVISION
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
Timothy P. CLARK, et al.
Serial No.: 11/971,376
Filed: January 9, 2008

Title: **DIGITAL CAMERA WITH IMAGE TRACKING 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 March 7, 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 Substitute Pre-examination Search Document, filed on March 11, 2008.

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 M. Zele/

Quality Assurance Specialist
Technology Center 2600
Communications

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
Richard R. Stover :
Application No. 11/971,396 : DECISION ON PETITION
Filed: January 9, 2008 : TO WITHDRAW
Attorney Docket No. 30618-728.201 : 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 7, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Vernon Norviel on behalf of all attorneys of record who are associated with customer No. 29171. All attorneys/agents associated with the Customer Number 29171 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PERICOR THERAPEUTICS, INC.
350 FIFTH AVENUE
59TH FLOOR
NEW YORK, NY 10118

cc: PERICOR THERAPEUTICS. INC. C/O
COOLEY, GOODWARD KRONISH, LLP
777 6TH STREET NW
SUITE 1100
WASHINGTON, DC 20001

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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
11/971,396	01/09/2008	Richard R. Stover	30618-728.201

CONFIRMATION NO. 4827

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

POWER OF ATTORNEY NOTICE

Date Mailed: 05/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/07/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/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

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of	:	
De La Rosa I Esteva et al.	:	
Application No. 11/971,451	:	DECISION ON PETITION
Filed: January 9, 2008	:	
Attorney Docket No: TJA-187US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 28, 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 29, 2008. A Notice of Abandonment was mailed October 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the Oath or Declaration, the $65.00 Surcharge fee and Replacement Drawings; (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Currently, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Joan Olszewski
Petition Examiner
Office of Petitions

cc: Michael J. Folise, Esq.
Black, Lowe & Graham PLLC
701 Fifth Avenue, Ste. 4800
Seattle, WA 98104

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OFFICE OF PETITIONS

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

In re Application of :
Heather Diane Hudspeth et al :
Application No. 11/971,452 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. 160224-8

This is a decision on the petition, filed May 11, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 5, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2889 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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CST

December 10, 2008

In re application of	:	DECISION ON REQUEST TO
Fumio Kato et al	:	PARTICIPATE IN PATENT
Serial No. 11/971,495	:	PROSECUTION HIGHWAY
Filed: January 9, 2008	:	PROGRAM AND
For: ALKALINE DRY BATTERY	:	PETITION TO MAKE SPECIAL
	:	UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed October 16, 2008.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
   b. An English translation of the allowable/ patentable claim(s), if applicable; and
   c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
- a. Documentation of prior office action:
  - i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
  - ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
  - iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form:

  Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
- b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
- c. A statement that the English translation is accurate;

(6) Applicant must submit:
- a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
- b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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OFFICE OF PETITIONS

In re Application of :
Cobb et al. :
Application No. 11/971,519 :
Filed: January 9, 2008 :
Attorney Docket No. 44992-106434 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 30, 2008.

The request is **DISMISSED**.

A review of the file record indicates that Thomas J. Donovan does 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.

A review of USPTO records reveals that Power of Attorney for Patent Application submitted January 9, 2008 was signed by only one of the two listed inventors and therefore was not proper. Further, if the inventor who did sign is acting on behalf of the assignee, the Power of Attorney was still not proper as a Statement under 37 CFR .3.73(b) was never submitted.

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, the request to change the correspondence address of record is not accepted in view of Mr. Donovan not having power of attorney and the assignee not having

submitted a properly completed Statement under 37 CFR 3.73(b). Therefore, all future communications from the Office will continue to be directed solely to the address of record.

Currently this application has been docketed and is awaiting examination.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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.
11/971,528	01/09/2008	Tabraiz Ali Khan	20714-0076-U1	5055

7590 12/07/2009

MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

EXAMINER	
PASCHALL, MARK H	
ART UNIT	**PAPER NUMBER**
3742	
MAIL DATE	**DELIVERY MODE**
12/07/2009	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

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OFFICE OF PETITIONS

Sterne, Kessler, Goldstein & Fox, P.L.L.C.
1100 New York Avenue, N.W.
Washington, DC 20005

In re Application of	:	
Paulo Antonio Ribeiro Cardoso	:	
Application No. 11/971,611	:	DECISION ON PETITION
Filed: January 9, 2008	:	TO WITHDRAW
Attorney Docket No. 2863.0050000	:	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 19, 2010.

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 all attorneys/agents associated with customer number 56074 have been revoked by the assignee of the patent application on April 22, 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 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: Bever, Hoffman & Harms, LLP
901 Campisi Way
Suite 370
Campbell, CA 95008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/971,611	01/09/2008	Paulo Antonio Ribeiro CARDOSO	2863.0050000

CONFIRMATION NO. 5200

56074
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

POWER OF ATTORNEY NOTICE

OC000000041732704

Date Mailed: 05/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2010.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DIW Nov-08

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

COPY MAILED

NOV 13 2008

In re Application of :
Millar et al. :
Application Number: 11/971620 :
Filing Date: 01/09/2008 : ON PETITION
Attorney Docket Number: :
H0014871 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on October 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 29, 2008, for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on January 28, 2008, which set a two (2)-month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on October 6, 2008.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the declaration and surcharge filed with the subject petition is acknowledged.

It is noted that the declaration states to:

> Direct all correspondence to: Customer No. 00128
> Scully Scott Murphy & Presser
> Attn: Mr P Y Braginsky
> 400 Garden City Plaza
> Garden City
> New York 11530
> United States of America

The address associated with Customer Number 00128 is the address which is currently the correspondence address of record, and is different than the typed address provided above. In accordance with 37 CFR 1.33(a) if more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address.

Accordingly, a courtesy copy of this decision will be mailed to the typed address indicated above. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

Scully Scott Murphy & Presser
Attn: Mr. P Y Braginsky
400 Garden City Plaza
Garden City NY 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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NELSON MULLINS RILEY & SCARBOROUGH LLP
IP DEPARTMENT
100 NORTH TRYON STREET
42ND FLOOR
CHARLOTTE, NC 28202-4000

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Garries et al.	:	DECISION ON PETITION
Application No. 11/971,641	:	TO WITHDRAW
Filed: January 9, 2008	:	FROM RECORD
Attorney Docket No. 41832/5690	:	

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 9, 2009.

The request is **DISMISSED** as involving a moot issue.

A review of the file record indicates that the power of attorney was revoked by the assignee of the patent application on August 28, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JELD-WEN, INC. - STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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	: Vikram Chopra	: DECISION ON REQUEST FOR
Patent Number	: 7658433	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/971,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 05/18/2010

Applicant : Vikram Chopra
Patent Number : 7658433
Issue Date : 02/09/2010
Application No: 11/971,644
Filed : 01/09/2008

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **83** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Teksuya Takiguchi	: DECISION ON REQUEST FOR
Patent Number	: 7660717	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/971,651	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/971,676	01/09/2008	Hideo Ando	320085US2SCONT	5314

7590 09/15/2008

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
09/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
09/15/2008 0030061100

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXX1003

Adjustment date: 09/15/2008 NFARMER
01/10/2008 INTEFSW 00002360 11971676
02 FC:1111 -510.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

COPY MAILED

AUG 15 2008

In re Application of	:	
Timmins et al.	:	
Application No. 11/971684	:	DECISION GRANTING
Filing or 371(c) Date: 01/09/2008	:	PETITION UNDER
Title of Invention: SYSTEMS AND METHODS FOR	:	37 CFR 1.47(a)
ANALYZING INFORMATION TECHNOLOGY	:	
SYSTEMS USING COLLABORATIVE INTELLIGENCE	:	

This is in response to a petition under 37 C.F.R 1.47, filed June 30, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Mark Kincaid, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Patent Application Processing for continued processing in the normal course of business.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MR. MARK KINCAID
321 SCOTT ROAD
CUMBERLAND, RI 02864

COPY MAILED

AUG 15 2008

In re Application of	:	
Timmins et al.	:	
Application No. 11/971684	:	LETTER
Filing or 371(c) Date: 01/09/2008	:	
Title of Invention: SYSTEMS AND METHODS FOR ANALYZING INFORMATION TECHNOLOGY SYSTEMS USING COLLABORATIVE INTELLIGENCE	:	

Dear Mr. Kincaid:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/971,703	01/09/2008	Masayuki KANEKO	MNL-2635-569	5355

7590 09/10/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
KWON, JOHN	

ART UNIT	PAPER NUMBER
3747	

MAIL DATE	DELIVERY MODE
09/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 BPOWELL
-510.00 DP

Adjustment date: 09/11/2009 BPOWELL
-510.00 DP

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MAIL

FEB 11 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
ROOSLI, PHILIPP A., et al.
Serial No.: 11/971,749
Filed January 09, 2008

Title: **POWER MANAGEMENT LOCK SYSTEM AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 09, 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 **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 USC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions set forth under section I. above are considered to have been met. However, the petition fails to comply with conditions set forth under section II. items 5.2, 5.3, 6.3, and 6.5.

For these reasons cited above, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement in item 5.2 and 5.3 above, the preexamination search document provided with the instant petition is deficient as follows: The US field of search and database searches which are to be provided under section 8(A) are not sufficient. In addition to the search areas provided, applicant would also need to search in the following class/subclass: 455/343.1

Regarding the requirement in item 6.3 above, the Accelerated Examination Support Document is deficient because in section 9 (C) applicant has not provided 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). Petitioner makes a single statement of patentability for the independent claims 1, 14, and 16. However, the claim limitations defined in the statement for patentability are not specifically found in all of the independent claims. For instance, "the management of the provision of power within at least some of the electronically powered lock components disposed at the door" is not specifically claimed in claims 14. and 16 Petitioner does not provide a detailed explanation of patentability of all claims (including the dependent claims) with respect to each reference cited and if claims do not stand or fall together, how each claim (including the dependent claims) is patentably distinct over the cited prior art in combination with the other cited references. Petitioner has only provided a broad statement that "dependent claims 2-13, 15, and 17-20, as set forth above, each have features that would define over Roth and McLintock if claims 1, 14, and 16 were found to be unpatentable". **Since petitioner has only argued the patentability of the broadest, independent claims and no separate reasons for patentability are argued in regard to any of the dependent claims, it is presumed that petitioner believes that all claims stand or fall together. 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.**

Regarding the requirement in item 6.5 above, the "Accelerated Examination Support Document", is deficient because section 9(F) fails to include a showing of where ***each limitation of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of the instant specification. Petitioner provides a broad statement that support is shown for claims 1-24 (1-20) and identifies paragraphs, without providing any indication where each specific claim limitation finds support in the specification for each claim. Clarification is required. Furthermore, the "Accelerated Examination Support Document", is deficient because it fails to include a showing of where ***each limitation of the claims*** finds support under the first paragraph of 35 USC 112 in the written description of ***each benefit application***. As set forth supra, "*if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists*". The instant application claims benefit of priority to parent applications 11/705,362; 11/082,559; 11/082,577 and provisional applications SN 60/647,659 and 60/647,741. Therefore, an updated accelerated

examination support document must be provided which shows where each limitation of the claims finds support in each of these benefit applications as well.

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 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; 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, including a showing of where each limitation of each claim finds support in all benefit applications.

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

~~Commissioner for Patents~~
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

APR 10 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of:
ROOSLI, PHILIPP A. et al,
Serial No.: 11/971,749
Filed: January 09, 2008

Title: **POWER MANAGEMENT LOCK SYSTEM AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on March 10, 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 February 11, 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.

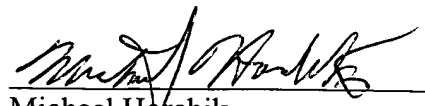
   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

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

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.
11/971,824	01/09/2008	Byoung-Min Chun	60987/L550	5584

7590 07/01/2010

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
07/01/2010	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: 07/01/2010 NFARMER
01/10/2008 INTERSU 00003721 031728 11571824
02 FC:1111 510.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

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NOV 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Charlie W. Case, Jr. :
Application No. 11/971,836 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. 1463-001/MMM :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 4, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed 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 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 reply filed concurrently with the instant petition lacks Replacement Drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) required by the Notice. This application can not be revived until the item noted above is received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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

11/971836 Examiner: , GAU: 2629
Inventor: CASE , CHARLIE Classification: 345/157.000
Status: 19 - APPLICATION UNDERGOING PREEXAM PROCESSING
Title: PORTABLE ELECTRONIC DEVICE TOUCHPAD INPUT CONTROLLER
Start Date: End Date:

bib_fee report (6 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/05/2008	4841	4	4011	$75.00	09/04/2008	CC
09/05/2008	4842	4	2111	$255.00	09/04/2008	CC
09/05/2008	4843	4	2311	$105.00	09/04/2008	CC
09/05/2008	4844	4	2202	$225.00	09/04/2008	CC
09/05/2008	4845	4	2051	$65.00	09/04/2008	CC
09/05/2008	4846	4	2453	$770.00	09/04/2008	CC

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
11/971,836	01/09/2008	Charlie W. Case JR.	1463-001/MMM

CONFIRMATION NO. 5608

21034
IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

FORMALITIES LETTER

OC000000028060979

Date Mailed: 02/04/2008

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 $**75** to complete the basic filing fee for a small entity.*
- The oath or declaration is unsigned.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 1,5.
  - The drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(l) and (p)(1)); See Figure(s) 5,8A.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

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 **$225** as a 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 **$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 **$725** for a small entity
- **$75** Statutory basic filing fee.
- **$65** Surcharge.
- The application search fee has not been paid. Applicant must submit **$255** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$105** to complete the examination fee for a small entity in compliance with 37 CFR 1.27.
- Total additional claim fee(s) for this application is **$225**
  - **$225** for **9** 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.

/lchau/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

PTO/SB/64 (01-08)
Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 1463-001/MMM

First named inventor: Case, Charlie W., Jr.

Application No.: 11/971,836 Art Unit: 2629

Filed: 01/09/2008 Examiner:

Title: Portable Electronic Device Touchpad Input Controller

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☑ Small entity-fee $ 770 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Declaration and filing fee missing parts (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Mark M. Meininger/	09/04/2008
Signature	Date
Mark M. Meininger	32,428
Typed or printed name	Registration Number, if applicable
ipsolon llp, 111 SW Columbia St. #710	503-419-0705
Address	Telephone Number
Portland OR 97201	
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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

IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

COPY MAILED

JAN 2 1 2009

In re Application of :
Charlie W. Case, Jr. :
Application No. 11/971,836 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. 1463-001/MMM :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed 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 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 renewed petition still does not satisfy item (1) since the drawings filed concurrently with the renewed petition are not in compliance with 37 CFR 1.121(d) that requires sheets having amended drawings to be labeled "Replacement Sheet".

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 13 2009

OFFICE OF PETITIONS

IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

In re Application of :
Charlie W. Case, Jr. :
Application No. 11/971,836 : ON PETITION
Filed: January 9, 2008 :
Attorney Docket No. 1463-001/MMM :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings and fees required by the Notice, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Patent Application Processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of :

JOHNSON, Gregory A. et al. :
Application No. 11/971,858 : DECISION ON PETITION
Filed: January 09, 2008 : TO WITHDRAW
Attorney Docket No. **ISAA0018C** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 01, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Glenn on behalf of all attorneys of record who are associated with customer No. 22862. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GREGORY A. JOHNSON**
7233 W. 114TH STREET
BLOOMINGTON, MINNESOTA 55438

cc: **JAMES CLEARY**
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
9255 TOWNE CENTRE DRIVE, SUITE 600
SAN DIEGO, CA 92121

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/971,911	01/10/2008	Beth Ann Peterson	TUC920070244US1	5754

75749 7590 03/14/2008

MAXVALUEIP CONSULTING LLC
11204 ALBERMYRTLE ROAD
POTOMAC, MD 20854

EXAMINER	
BEAUSOLIEL JR, ROBERT W	

ART UNIT	PAPER NUMBER
2113	

MAIL DATE	DELIVERY MODE
03/14/2008	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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MAXVALUEIP CONSULTING LLC
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POTOMAC, MD 20854

3/13/08

In re Application of: PETERSON, et al.
Serial No.: 11/971,911
Filed: January 10, 2008
Docket: TUC920070244US1
Title: METHOD AND SYSTEM FOR THRESHOLDING HARDWARE ERRORS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 10, 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 **DISMISSED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees that the dependent claims will be grouped together with and not to separately argue the patentability of any independent claim from which they depend during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The conditions I. 1-4 & II. 1-5.1, 6.1-6.3, 6.5 & 6.6 above are considered to have been met. However, the petition fails to comply with conditions II. 5.2 - 5.3 & 6.4 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

Regarding the requirement of MPEP § 708.02(a)(I.)(H)[1] and items 5.2 - 5.3 above, the preexam search must be directed to the (instant) claimed invention and encompass all of the disclosed features of the (instant) claims.

Specifically and with respect to items 5.2 - 5.3 above, Petitioner should identify whether the text search logic identified in the instant petition was utilized in combination with the field of search or separate therefrom (i.e. state whether or not the identified subclasses were searched in their entirety). In addition, based upon the claimed subject matter of the instant application, the identified text search (throughout) fails to take into account important terms identified to be claimed limitations that are "not taught by the prior art". For example, the text search provided does not include the following key words or phrases as found in independent claim 1 and identified by Petitioner: "not allowed or prevented" and "fenced off"; "set marker"; "limited error recovery"; and " longitudinal-redundancy". In order to complete the search for the pending instant claim, an expanded text search is required. In addition, the identified text search is too broad in scope since it includes the proximity operator "and" throughout rather than any of the narrower close proximity operators.

The additional search areas and search recommendations were confirmed with and recommended by a (primary) examiner in the pertinent art area.

With regard to the requirement of MPEP § 708.02(a)(I.)(I)(4) and item 6.4 above, the concise statement of the utility ***must be of the invention as defined in <u>each</u> of the independent claims*** i.e. reference must be made to the "method <u>and</u> ***system*** for thresholding hardware errors ..." as stated on page 14 of the instant petition whereas the sole independent claim is drawn to a "***method*** of thresholding hardware errors in a storage system ... the method comprising the steps of ....". It appears that the term "and" (above) would more accurately reflect the claimed utility if replaced with the phrase - -for a- -. Correction is required.

Thus, the petition does not meet the conditions II. 5.2-5.3 and 6.4 above.

[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) is permitted) from the date of this decision in order to be considered timely. Any request for reconsideration ***must fully address all of the deficiencies indicated above***. [emphasis added]

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Brian Johnson, Quality Assurance Specialist, at (571) 272-3595. If attempts to reach the undersigned by telephone are unsuccessful, 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.
11/971,911	01/10/2008	Beth Ann Peterson	TUC920070244US1	5754

75749 7590 07/18/2008

MAXVALUEIP CONSULTING LLC
11204 ALBERMYRTLE ROAD
POTOMAC, MD 20854

EXAMINER	
BEAUSOLIEL JR, ROBERT W	
ART UNIT	PAPER NUMBER
2113	

MAIL DATE	DELIVERY MODE
07/18/2008	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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07/17/2008

MAXVALUEIP CONSULTING, LLC
11204 ALBERMYRTLE ROAD
POTOMAC, MD 20854

In re Application of:
PETERSON, et al.
Serial No.: 11/971,911
Filed: January 10, 2008
Docket: TUC920070244US1
Title: METHOD AND SYSTEM FOR THRESHOLDING HARDWARE ERRORS

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 12, 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 January 10, 2008 was dismissed in the decision mailed on March 14, 2008.

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
   If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention (invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (RCE) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal, or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application. 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. If attempts to reach the undersigned by telephone are unsuccessful, Kakali Chaki, Quality Assurance Specialist, can be reached at (571) 272-3719.

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.
11/971,961	01/10/2008	Daisuke YAMAMOTO	056205.59857US	5855

7590 11/25/2009

CROWELL & MORING LLP
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P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER	
OLSZEWSKI, JOHN	

ART UNIT	PAPER NUMBER
3618	

MAIL DATE	DELIVERY MODE
11/25/2009	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

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SUITE 900
HUNTSVILLE AL 35801

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Havin et al.	:	
Application No. 11/971,968	:	ON PETITION
Filed: January 10, 2008	:	
Attorney Docket No. 0B175-94237	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 2, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement by the applicant's attorney that he is 65 years of age, and an Affidavit from applicant that he is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2857 for action on the merits commensurate with this decision.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

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DEC 10 2008

In re Application of	:	
Philip S. Green	:	
Application No.: 11/971984	:	DECISION ON
Filing or 371(c) Date: 01/10/2008	:	PETITION
Attorney Docket Number: 00287S 003351US	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment based on Evidence that a Reply was Timely Filed under 37 CFR 1.181(a))," filed November 5, 2008.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed January 29, 2008. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 30, 2008. A Notice of Abandonment was mailed October 9, 2008.

Applicant files the present petition and asserts that a timely reply to the Notice was filed using the certificate of facsimile procedures under 37 CFR 1.8. In support of this assertion, Applicant provides a copy of the reply; a copy of the sending unit's transmission report that 11 pages were transmitted to this Office on March 12, 2008, and a statement from Ms. Barbara deRuyter, attesting to the transmission of the reply on March 12, 2008. A review of the reply reveals that Applicant filed, *inter alia*, Replacement drawings in response to the Notice, that includes a Certificate of Mailing Under 37 CFR 1.8, dated March 12, 2008. The Certificate of Mailing is executed by Ms. Barbara deRuyter (37 CFR 1.8(b)(3)).

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a

reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), the correspondence will be considered timely if the party who forwarded such correspondence:

(1)Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2)Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3)Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has complied with the requirements of 37 CFR 1.8(b).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to the Office of patent Application Processing for processing of the Reply, and for continued processing in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

COPY MAILED
AUG 22 2008

In re Application of	:	
Jan Glinski	:	
Application No.: 11/971994	:	DECISION ON
Filing or 371(c) Date: 01/10/2008	:	PETITION
Attorney Docket Number: 53095	:	

This is a decision in response to the "Petition for Revival of Abandoned Patent Application on the Grounds of Unintentional Delay Under 37 CFR 1.137(b)," filed May 19, 2008. The petition is properly treated under 37 CFR 1.53(e), to accord the application a filing date[1].

The petition is **granted.**

The application was filed on January 10, 2008. On February 1, 2008, the Office of Patent Application Processing mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice informed Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings, and set a two (2) month period for reply. The Notice also required $75.00 to complete the basic filing fee, search fee, and examination fee, and required a properly signed oath or declaration. No reply having been received, proceedings in the application were terminated on April 2, 2008. Applicant was so notified in a Notice of termination of Proceedings Under 37 CFR 1.53(e), mailed May 15, 2008.

Applicant files the present petition; oath/declaration, and late filing fees in response to the Notice. Petitioner also notes that the Application Data Sheet claimed priority to Provisional Application No. 60/884,277, which was filed with drawings.

According a Filing date

A review of the file reveals that the specification contains process claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process, method or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

[1] A petition to revive the application is inappropriate because the application was never accorded a filing date and thus could not have gone abandoned.

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains process claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

The Notice was mailed in error and is hereby withdrawn. The application will be referred to the Office of patent Application Processing to accord the application a filing date of January 10, 2008, with no drawings present in the application.

Priority claim ((37 CFR 1.57(a))

The MPEP 601.01(f) further provides that

> As an alternative to a petition under 37 CFR 1.53(e), if the drawing(s) was inadvertently omitted from an application filed on or after September 21, 2004, and the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted drawing(s) is completely contained in the prior-filed application, the applicant may submit the omitted drawing(s) by way of an amendment in compliance with 37 CFR 1.57(a). The amendment must be by way of a petition under 37 CFR 1.57(a)(3) accompanied by the petition fee set forth in 37 CFR 1.17(f). See MPEP § 201.17. (Emphasis supplied).

Applicant is advised that a petition is not necessary in this instance to add the omitted figures.

37 CFR 1.57(a), incorporation by reference, provides a method whereby an applicant may amend an application to include an inadvertently omitted portion of the specification or drawing(s). However, where a filing date has been accorded an application, a petition is not necessary to add the omitted portion of the specification or drawing(s). "If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this

paragraph accompanied by the fee set forth in § 1.17(f)." 37 CFR 1.57(a)(3). (Emphasis supplied). *See, Also*, MPEP 201.17(F).

The Manual of Patent Examining Procedure ("MPEP") also provides that

> ...37 CFR 1.57(a) was added to provide a safeguard for applicants when a page(s) of the specification, or a portion thereof, or a sheet(s) of the drawing(s), or a portion thereof, is inadvertently omitted from an application, such as through a clerical error. 37 CFR 1.57(a) applies to applications filed on or after September 21, 2004. 37 CFR 1.57(a) permits inadvertently omitted material to be added to the application by way of a later filed amendment if the inadvertently omitted portion of the specification or drawing(s) is completely contained in a prior-filed application (for which priority/benefit is claimed) even though there is no explicit incorporation by reference of the prior-filed application. *See* MPEP § 201.17 for discussion regarding 37 CFR 1.57(a). *See* MPEP § 601.01(p). (Emphasis supplied).

MPEP 201.06(c)(IV)(B).

No petition is required. Applicant should file an Amendment under 37 CFR 1.57(a) prior to the first Office action on the merits to include the inadvertently omitted drawings. The Amendment will be considered by the Examiner in due course.

The petition fees have been refunded to petitioner's deposit account.

The application will be referred to the Office of Patent Application Processing and accorded a filing date of January 10, 2008, using the application papers filed on that date, and for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

In re Application of :
BRIGGS, Barry D. et al. :
Application No. 11/972,028 : DECISION ON PETITION
Filed: January 10, 2008 : TO WITHDRAW
Attorney Docket No. **38187-2910** : 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 September 18, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Leslie Overman does 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.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

Mail Date: 05/21/2010

Applicant	: Ronald Joseph Haley	: DECISION ON REQUEST FOR
Patent Number	: 7618029	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/972,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **19** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 06/30/2010

Applicant	: Toshiyuki Nagata	: DECISION ON REQUEST FOR
Patent Number	: 7638401	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/972,048	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine CA 92614-6232

In re Application of:
COHEN, RONALD
Serial No.: 11/972,062
Filed: January 10, 2008

Title: **INTERACTIVITY WITH A MIXED REALITY**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 10, 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 **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: 345/632, 633; 463/30, 31; 715/757, 810, 848-852; and 725/37, 38, 39, 52, 56, 60, and 61. The search logic used in the database searches should also include the alternate terms for the following: For "Command" set → Instruction; for Mobile Device → Handheld; and for Travel → move, teleport, translate, navigate.

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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DIRECTOR'S OFFICE
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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine CA 92614-6232

In re Application of:
COHEN, RONALD
Serial No.: 11/972,062
Filed: January 10, 2008

Title: **INTERACTIVITY WITH A MIXED REALITY**

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 11, 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 February 11, 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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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: George M. Chalhoub	: DECISION ON REQUEST FOR
Patent Number	: 7644984	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/972,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GENERAL MOTORS LLC
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

Applicant	: Michael Livshiz	: DECISION ON REQUEST FOR
Patent Number	: 7650219	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/972,090	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **192** 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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TECHNOLOGY CENTER 2600

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

In re Application of:
MCLARTY, BRANDON D., et al.
Serial No.: 11/972,114
Filed: January 10, 2008

Title: **NOISE REDUCTION SYSTEM AND METHOD THEREOF**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 10, 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.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not complete under 37 CFR 1.51 and in condition for examination at the time of filing. The mailing of a Notice to File Corrected Application Papers mailed on January 22, 2008 is evidence that the application was not complete and in condition for examination at the time of filing. Corrected drawings were required. It is noted that the applicant submitted corrected drawings on February 8, 2008.

For the above-stated reason, the petition is denied. After the application is considered complete by the Office of Initial Patent Examination (OIPE), it will be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE, SC 29602-0447

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OFFICE OF PETITIONS

In re Application of	:	
Thomas Brent SKIDMORE	:	
Application No. 11/972,160	:	DECISION ON PETITION
Filed: January 10, 2008	:	TO WITHDRAW
Attorney Docket No. 037398-00005	:	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 1, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Douglas W. Kim, on behalf of the attorneys of record associated with Customer No. 27863.

The attorneys of record associated with Customer No. 27863 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address for future communications from the Office has been changed and the new correspondence address is indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc : T. BRENT SKIDMORE
728 N. PLEASANTBURG DRIVE
GREENVILLE, SC 29607

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/972,160	01/10/2008	Thomas Brent Skidmore	037398-00005

CONFIRMATION NO. 6210

POWER OF ATTORNEY NOTICE

27863
MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE, SC 29602-0447

Date Mailed: 04/09/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/01/2010.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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BC

December 16, 2009

In re application of	:	DECISION ON REQUEST TO
Shuichi Kobayashi	:	PARTICIPATE IN PATENT
Serial No. 11/972,193	:	PROSECUTION HIGHWAY
Filed: January 10, 2008	:	PROGRAM AND
For: SOLAR CELL MODULE RETAINING STRUCTURE, FRAME FOR SOLAR CELL MODULE, AND HOLDING MEMBER FOR SOLAR CELL MODULE	:	PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d) to make the above-identified application special filed November 09, 2009.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:

a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;
Further, if a copy of the documents from (i) or (ii) is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition is dismissed as moot according to the requirement item (4) above, since the examination of the U.S. application has begun and a non-final rejection was mailed on November 04, 2009.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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JUN 04 2010

OFFICE OF PETITIONS

BRIAN ROFFE, ESQ
540-B WILLOW AVENUE
CEDARHURST NY 11516-2211

In re Application of :
BREED, DAVID S. :
Application No. 11/972,205 : DECISION ON PETITION
Filed: January 10, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. ITI-029 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 25, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the certified copy of applicant's US passport. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Miranda Le at (571) 272-4112 or in her absence, the undersigned at (571) 272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2612 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/26/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11972229 Patent No.: 7488443 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

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: _____

Deleted: _____

Roy Van Cing — SPE

1793 — Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of
Lo Chuan Hu, et al.
Application No. 11/972,300
Filed: January 10, 2008
Attorney Docket No. 76115-255047

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 4, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **MORRIS MANNING MARTIN LLP**
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

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Brinks Hofer Gilson & Lione/Seiko Instruments Inc.
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

Applicant	: Takayuki Fukai	: DECISION ON REQUEST FOR
Patent Number	: 7587025	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/972,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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4 VENTURE, SUITE 250
IRVINE, CA 92618

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OFFICE OF PETITIONS

In re Application of :
Yu-Tong LIN, et *al.* :
Application No. 11/972,374 : NOTICE UNDER 37 CFR 1.28(C)
Filed: January 10, 2008 :
Attorney Docket No. **JCLA25290** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 13165
Jekyll Island GA 31527

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In re Application of :
Robert Garrett :
Application No. 11/972,377 : DECISION ON PETITION
Filed: January 10, 2008 : TO WITHDRAW
Attorney Docket No. **GARR-0019** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Robert Platt Bell on behalf of all attorneys of record who are associated with the above-identified application.

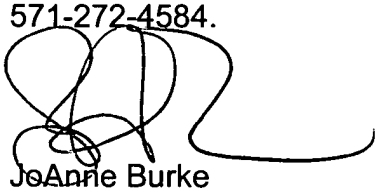
All attorneys/agents associated with the above-identified application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Robert Garrett at the address list listed in the request.

There is an outstanding Office action mailed December 22, 2009, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Robert Garrett
2470 Wintergreen Way
Gambrills, MD 21054-155

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CANTOR COLBURN LLP
IBM YORKTOWN
20 Church Street, 22nd Floor
Hartford, CT 06103

MAR 21 2008

In re Application of: Bing Dang et al. Serial No.: 11/972,388 Filed: January 10, 2008 Docket No.: YOR920070609US1 Title: SILICON CARRIER INCLUDING AN INTEGRATED HEATER FOR DIE REWORK AND WAFER PROBE	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 January 10, 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). It is noted that English translations of the foreign publications cited in the IDS were not provided. However, based on the nature of the invention being claimed, the relevant disclosures of the foreign publications can be readily ascertained from the drawings and from their discussions in the accelerated examination support document.

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. mpliance 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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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Bolding et al.	:	DECISION ON PETITION
Application No. 11/972,399	:	TO WITHDRAW
Filed: January 10, 2008	:	FROM RECORD
Attorney Docket No. BJSC.048U	:	

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 23, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on January 19, 2009 the power of attorney to Howrey LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Zarian Midgley & Johnson PLLC
University Plaza
960 Broadway Ave., Suite 250
Boise ID 83706

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/972,404	01/10/2008	Nobuyuki Matsushita	112857-1222	6606

7590 09/15/2009

K&L Gates LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER	
MEHTA, BHAVESH M	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
09/15/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/14/2009 NFARMER
01/11/2008 INTEFSW 00002093 021818 11972404
02 FC:1111 510.00 CR
04 FC:1201 1260.00 CR

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SCHWEGMAN LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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AUG 1 1 2008

In re Application of :
AUCIELLO, et al. :
Application No. 11/972,414 : DECISION ON PETITION
Filed: January 10, 2008 : TO WITHDRAW
Attorney Docket No. 2492.001 US1 : 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 12, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to SCHWEGMAN LUNDBERG & WOESSNER, PA has been revoked by the assignee of the patent application on July 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: LUCINDA PRICE
4759 RASPBERRY PLACE
SAN JOSE, CA 95129

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PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

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FEB 05 2010

Applicant: Weiner, et al.
Appl. No.: 11/972,421
Filing Date: January 10, 2008
Title: COMPOSITIONS AND METHODS OF USING CAPSID PROTEIN FROM FLAVIVIRUSES AND PESTIVIRUSES
Attorney Docket No.: 130694.06921
Pub. No.: US 2009/0104230 A1
Pub. Date: April 23, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 5, 2009, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

The initial filing receipt did not include a benefit claim including the provisional application because the filing date of the provisional application is more than one year prior to the filing date of the application. The Corrected Filing Receipt mailed on June 25, 2008 was done in error. A new Corrected Filing Receipt deleting the benefit claim will be mailed by the Office.

A proper benefit claim is not included in the first line of the specification or an Application Data Sheet (ADS). The first line of the specification makes a reference to a provisional application, but it is more than one year prior to the filing date of the instant application.

Pursuant to 37 CFR 1.78(a)(2), the specific reference must identify the parent application by application number and indicate the relationship to the parent application (i.e., "continuation" or "continuation-in-part"). Accordingly, any benefit claim that does not both identify a prior application by its application number and specify a relationship between the applications will not be considered to contain a specific reference to a prior application as required by 35 U.S.C. 120. As stated in MPEP 201.11, applicant must specify whether the application is a continuation, divisional, or continuation-in-part of the prior application. The terms are exclusive. An application cannot be both a continuation and a divisional or a continuation and a continuation-

in-part of the same application. Moreover, if the benefit of more than one nonprovisional application is claimed, then the relationship between each application (i.e., continuation, divisional, or continuation-in-part) must be specified in order to establish copendency throughout the entire chain of prior-filed applications.

In order to make a late benefit claim to the earlier filed applications, applicant may be able to submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119 and 120 for the benefit of the earlier filed applications. A petition pursuant to 37 CFR 1.55 or 37 CFR 1.78 must include 1) the surcharge ($1410) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference to the prior applications in order for the petition to be granted.

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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of :
HESS, Wolfgang et al. :
Application No. 11/972,466 : DECISION ON PETITION
Filed: January 10, 2008 : TO WITHDRAW
Attorney Docket No. **11336-1813 (P06095US)** : 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 review of the file record indicates that the power of attorney filed by the assignee of the patent application on July 06, 2009 does not list the reel and frame. 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: **THE ECLIPSE GROUP LLP**
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

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KENNETH E. JENKINS, PhD
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO ENBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Barlow et al.	:	DECISION ON PETITION
Application No. 11/972,467	:	TO WITHDRAW
Filed: January 10, 2008	:	FROM RECORD
Attorney Docket No. BRAIN1370-1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 30, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on March 4, 2009 the power of attorney to Townsend and Townsend and Crew, 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: DLA Piper LLP (US)
4365 Executive Drive
Suite 1100
San Diego CA 92121-2133

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THE ADAMS LAW FIRM
Suite H262
901 Rio Grande Blvd., NW
Albuquerque, NM 87104

MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Application of :
Kramer E. Woodard :
Application No. 11/972,543 : DECISION ON PETITION
Filed: January 10, 2008 : 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 1, 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 Paul Adams 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 Kramer E. Woodard 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: **Kramer E. Woodard**
112 Granite NW
Albuquerque, NM 87102

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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
11/972,543	01/10/2008	Kramer E. Woodard	

CONFIRMATION NO. 6865

POWER OF ATTORNEY NOTICE

The Adams Law Firm
Suite H262
901 Rio Grande Blvd. NW
Albuquerque, NM 87104

OC00000037367261

Date Mailed: 08/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/01/2009.

- 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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901 RIO GRANDE BLVD. NW
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ALBUQUERQUE NM 87111

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APR 08 2010

OFFICE OF PETITIONS

In re Application of

Kramer E. Woodward :

Application No. 11/972,543

: DECISION ON PETITION

Filed: January 10, 2008

:

Attorney Docket No.

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 restriction/election requirement mailed April 22, 2009, which set a shortened period for reply of one month from its mailing date. A proper response was not received within the allowable period. The application became abandoned on May 23, 2009. A Notice of Abandonment was mailed January 22, 2010.

The election filed February 12, 2010, is noted.

The power of attorney and request to change correspondence address of record filed February 12, 2010, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3635 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/972,546	01/10/2008	Janice Alfrey	100962.0006US2	6875

24392 7590 03/13/2008

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine, CA 92614-6232

EXAMINER	
ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
03/13/2008	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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MAR 13 2008

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Irvine, CA 92614-6232

In re Application of
Janice Alfrey
Serial No.: 11/972,546
Filed: November 10, 2008
Attorney Docket No.: 100962.0006US2

: 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 January 10, 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 **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 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 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, applicant has provided a Pre-examination Search Document which appears deficient in several ways. First, no specific class or subclasses were searched where the subject matter would most likely be classified, which is required. Merely searching "All" is insufficient. The Pre-examination Support document also appears deficient in that the limitation of "the step of receiving information" was not given the broadest reasonable interpretation for search terms used in the Pre-Examination Search Document. For example, claim 11 can be reasonably construed as to embrace simply a step of reading of processing a disclosure from a published patent classified in class 504/187. Claim 12 embraces the "marketing" step, which is drawn to class 705, subclasses 1, 5-6, 400-500. Further, the limitation "marketing and selling solution" can be reasonably construed as a package, container, or kits containing the solution as recited in claim 1, and thus, a text search should also be done alone for each of the aforementioned classes and subclasses in combination with a text search for the disclosed features as set forth in each claimed embodiment. The search appears to have been done with a search query of "verbatim" language, e.g., "the step of provisioning" or "provisioning", and thus, was not conducted with a broadest reasonable interpretation in each database – individual terms were neither construed with a broadest reasonable interpretation for searched terms, nor searched sufficiently and adequately to encompass the disclosed features that may be claimed, which raises questions as to the validity of the search. It further appears that different search terms were used in different databases, e.g., USPAT vs. Google, raising a question as to completeness of the search in any database. It is noted also that Google Scholar does not represent an adequate representation of scientific references disclosed in non-patent literature, particularly since it is not known currently as to what is the list of scientific journals and their frequency of their respective update carried by the Google Scholar.

In view of the above deficiencies the search and the Pre-examination Support Document and IDS form are defective or incomplete and need to be revised or updated.

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 Dave Nguyen, TQAS TC 1600, at (571) 272-0731.

Dave T Nguyen
TC Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/972,546	01/10/2008	Janice Alfrey	100962.0006US2	6875

24392 7590 06/24/2008

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine, CA 92614-6232

EXAMINER	
ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
06/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JUN 2 4 2008

FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Irvine, CA 92614-6232

In re Application of	:
Janice Alfrey	: DECISION ON PETITION TO MAKE
Serial No.: 11/972,546	: SPECIAL FOR NEW APPLICATION
Filed: November 10, 2008	: UNDER 37 C.F.R. § 1.102 & M.P.E.P.
Attorney Docket No.: 100962.0006US2	: § 708.02

This is a decision on the renewed petition filed April 14th, 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, TC1600 Quality Assurance Specialist, at (571) 272-0731.

Dave T. Nguyen
TC1600 Quality Assurance Specialist
Technology Center 1600

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ROBERT D. FISH
2603 MAIN STREET, SUITE 1000
IRVINE, CA 92614-6232

MAILED

MAY 18 2009

OFFICE OF PETITIONS

In re Application of :
Janice Alfrey et al :
Application No. 11/972,546 : ON PETITION
Filed: January 10, 2008 :
Attorney Docket No. 100962.0006US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 Office action mailed January 30, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on March 1, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1638 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 05/05/2010

Applicant	: Chih-kuang Yang	: DECISION ON REQUEST FOR
Patent Number	: 7656679	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/972,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **7** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DAVID KIEWIT
5901 THIRD ST SOUTH
ST PETERSBURG, FL 33705

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
James N. Barber :
Application No. 11/972,571 : DECISION ON PETITION
Filed: January 10, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. SCU : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 10, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred back to the Office of Patent Application Papers for pre-examination processing. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

FEB 19 2008

In re Application of	:	
Donald D. Sloan	:	DECISION
Serial No.: 11/972,574	:	ON
Filed: January 10, 2008	:	PETITION
For: MULTIPURPOSE DIGITAL INK	:	UNDER 708.02, VI

This is in response to the petition filed January 15, 2008, requesting that the above identified application be granted Special Status under Section 708.02, VI of the MPEP and 37 CFR 1.102c.

The petition has been considered and found to comply with the requirements set forth under the above noted section. Accordingly, the petition is granted.

The petition to **GRANTED**.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

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BERKELEY LAW & TECHNOLOGY GROUP, LLP
Suite 250
17933 NW Evergreen Parkway
BEAVERTON, OR 97006

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SEP 26 2008

In re Application of :
Demmitt et al. :
Application No. 11/972,610 : Decision Refusing to Accord
Filed: January 10, 2008 : Status Under 37 CFR 1.47(a)
Attorney Docket No. 095.P001 :
For: System and Method For Delivery :
of Voicemails to Handheld Devices :

This is a decision on the petition under 37 CFR 1.47(a) filed June 26, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy item (2) above.

As to item (2), the declaration filed June 26, 2008, fails to comply with the requirements of 37 CFR 1.63 and 1.64. Specifically, the declaration does not set forth the citizenship of inventor

LeBeau. Per 35 U.S.C. § 115, an oath or declaration must include the citizenship of each inventor.

Petitioner must make an attempt to ascertain inventor LeBeau's citizenship, either through employee records, former co-workers, etc., and must provide a statement in the renewed petition that, on information and belief, the citizenship of the inventor is with a specified country, i.e., Germany, France, etc.

In order for the application to be accorded status under Rule 47, a request for reconsideration and a supplemental declaration listing LeBeau's citizenship must be filed. The declaration may be signed by one or more of the inventors, an officer of the assignee, or a registered practitioner on behalf of the assignee. If the supplemental declaration is signed by an officer of the assignee, the title of the individual signing the declaration must be included on the declaration. If the supplemental declaration is signed by a registered practitioner, the practitioner should explicitly state he is authorized to sign the declaration on behalf of the assignee.

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

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

BERKELEY LAW & TECHNOLOGY GROUP, LLP
Suite 250
17933 NW Evergreen Parkway
BEAVERTON, OR 97006

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JAN 27 2009

OFFICE OF PETITIONS

In re Application of :
Demmitt et al. :
Application No. 11/972,610 :
Filed: January 10, 2008 :
Attorney Docket No. 095.P001 :
For: System and Method For Delivery :
of Voicemails to Handheld Devices :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed November 7, 2008.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

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APR 06 2009

OFFICE OF PETITIONS

Applicant: Antosson
Appl. No.: 11/972,654
Filing Date: January 11, 2008
Title: NEW PYRIDINE ANALOGUES VII 543
Attorney Docket No.: 133087.27401(102543-1 US)
Pub. No.: US 2008/0176827 A1
Pub. Date: July 24, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 24, 2008 for the above-identified application. Applicant requests that the application be republished because the patent application publication contains a material error in several claims.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in dependent claims 2 wherein the preliminary amendment was not properly included as the amended phrase "one or more of halogen atoms" was printed as originally filed as "one or more halogen (F, Cl, Br, I) atoms" and a comma is missing in independent claim 20 before "and".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error noted by requestor wherein phrase "one or more of halogen atoms" was printed as originally filed as "one or more halogen (F, Cl, Br, I) atoms is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the claim, as the listed atoms are

[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).

halogens. The error noted with respect to the missing comma is clearly a minor typographical error. The mistakes are typographical errors, which do not affect the understanding of the application, as the text of specification and the claims is clearly understandable from reading the specification, as the misprinted and misplaced numeral does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Hung-Jung Hsu et al. :
Application No. 11/972,658 : DECISION ON PETITION
Filed: January 11, 2008 : UNDER 37 CFR 1.137(b)
Attorney Docket No. RIC072 :

This is a decision on the petition, filed September 10, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 29, 2008, and June 27, 2008. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 7, 2009, accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being forward to Technology Center Art Unit 2189 for examination in due course.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/972,658	01/11/2008	Hung-Jung Hsu	RIC072

CONFIRMATION NO. 7122

32047
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

NONPUBLICATION RESCISSION LETTER

Date Mailed: 01/28/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/07/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Sep-08

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

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SEP 22 2008

In re Application of	:
DeLease, Rosenthal, and Canessa	: DECISION ACCORDING STATUS
Application Number: 11/972683	: UNDER 37 CFR 1.47(a)
Filing Date: 01/11/2008	:
Attorney Docket Number: CSB-0004-P	:

This is in response to the petition under 37 CFR 1.47(a) filed on July 31, 2008.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Patricia DeLease, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers, including the declaration naming her as a joint inventor along with Paul Jay Rosenthal and Carlos Alberto Canessa. Specifically, petitioners have shown, via the statement of counsel's Legal Assistant, Rebecca L. Blake, that a copy of the application was sent to the non-signing inventor, but that the non-signing inventor failed to sign and return the declaration, despite having been sent repeated emails asking her so to do.

As such, the showing of record is that the non-signing inventor has constructively refused to join in the filing of the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Technology Center 1794 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW sep-08

Patricia DeLease
7 Cozier Hill Road Extension
Sherman CT 06784

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SEP 22 2008

In re Application of
DeLease et al.
Application No. 11/972,683
Filed: January 11, 2008
For: FOAM-CREATING COMPOSITIONS, FOAMING BEVERAGE COMPOSITIONS, AND METHODS OF PREPARATION THEREOF

Dear Ms. DeLease:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

CANTOR COLBURN, LLP
20 CHURCH ST
22ND FLOOR
HARTFORD CT 06103

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

KRATON POLYMERS U.S. LLC
16400 PARK ROW
HOUSTON TX 77084

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
Robert C. Bening et al. :
Application No. 11/972,701 : ON PETITION
Filed: January 11, 2008 :
Attorney Docket No: W0092/US/2 :

This is a decision on the petition filed April 22, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 6, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned November 9, 2009. Accordingly, a Notice of Abandonment was mailed February 22, 2010.

This matter is being referred to Technology Center 1796 for appropriate action on the amendment filed April 22, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
David Jackson, et al. :
Application No. 11/972,711 : DECISION ON PETITION
Filed: January 11, 2008 : TO MAKE SPECIAL UNDER
Attorney Docket No. 040350/333737 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 27, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2618 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Ashees Jain et al	:	DECISION GRANTING STATUS
Application No. 11/972,723	:	UNDER 37 CFR 1.47(a)
Filed: January 11, 2008	:	
Attorney Docket No. 018638-04-5154	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 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 Patent Application Processing for pre-examination processing. Afterwards, the application will be referred to Technology Center AU 3694 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RALPH LENTINI
36 MADISON AVENUE
MAPLEWOOD, NJ 07040

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of
Ashees Jain et al
Application No. 11/972,723
Filed: January 11, 2008
For: SYSTEMS AND METHODS FOR PROVIDING EMBEDDED RECEIVER NOTES

Dear Mr. Ashees:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3208. 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).

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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

CALLAWAY GOLF COMPANY
2180 RUTHERFORD ROAD
CARLSBAD CA 92008-7328

MAR 06 2008

In re Application of: Dawson, Patrick et al.
Application No.: 11/972,764
Filed: January 11, 2008
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 January 11, 2008 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 1-12, 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. 7-8 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 p. 11, l. 4 et seq.,:

"With respect to claim 1, a golf club head with a volume ranging from 450 cubic centimeters to 475 cubic centimeters is described at least at paragraphs [0005] and [0033] of the present application,"

This mapping lacks specificity, because the combination of paragraphs 5 and 33 extend over half a page. 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

APR 04 2008

In re Application of: Dawson, Patrick, et al.
Application No.: 11/972,764
Filed: January 11, 2008
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 April 2, 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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P.O. Box 1450
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PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN, PA 19312-1183

MAILED

NOV 25 2009

OFFICE OF PETITIONS

Applicant: Amin, et al.
Appl. No.: 11/972,787
Filing Date: December 21, 2007
Title: NEW PYRIDINE ANALOGUES X 161
Attorney Docket: 133087.27501 (103161-1 US)
Pub. No.: 2009/0018166 A1
Pub. Date: January 15, 2009

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(b), received on March 12, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in optical character recognition in claim 1.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the superscripts in Claim 1, may be Office errors, but the errors are not material error in accordance with 37 CFR 1.221(b). The errors are due to faulty optical character recognition, which are due to the quality and size of the text, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52(a)(1)(v), which states that all papers that are to become a permanent part of Office records must be presented "in a form having sufficient clarity and contrast between the paper and the writing to permit...electronic capture by use of digital imaging and optical character recognition". As set forth at MPEP 1121, "applications with poor quality text, which may acceptable for scanning and examination purposes, may lead to errors in the patent application

[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).

publication. Correction of these errors and inclusion of any desired amendments into the text of the originally-filed specification and drawings may occur if applicant files a request for republication under 37 CFR (a).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEP 30 2009

OFFICE OF PETITIONS

WILLIAMSON INTELLECTUAL PROPERTY LAW, LLC
1870 THE EXCHANGE, SUITE 100
ATLANTA, GA 30339

In re Application of	:	
George L. Frady	:	
Application No. 11/972,799	:	DECISION ON PETITION
Filed: January 11, 2008	:	TO WITHDRAW
Attorney Docket No. Frady-RA	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed August 21, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with the above application has been revoked by the assignee of the patent application on September 12, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Myers IP Law, LLC
1827 Powers Ferry Road, Building 15, Suite 325
Atlanta GA 30339

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 19, 2010

TO SPE OF : ART UNIT 2814 - SPE Wael M. Fahmy.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/972,844 Patent No.: 7,622,749 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the Foreign Priority Data be inserted as shown on 1050 form in COCIN dated 01-13-2010 ?

_____
Certificates of Correction Branch
(571)272-0483

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: Please enter the Foreign Priority Data as requested on form 1050 filed 13 Jan. 2010.

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Paper No.

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Johnny Valdez	:	DECISION ON PETITION
Application No. 11/972,874	:	PURSUANT TO
Date of Deposit: January 11, 2008	:	37 C.F.R. § 1.182
Attorney Docket No. 62145-5001-US01	:	
Title: IMMUNOASSAYS, HAPTENS,	:	
IMMUNOGENS AND ANTIBODIES FOR	:	
ANTI-HIV THERAPEUTICS	:	

This is a decision on the "PETITION UNDER 37 CFR 1.57(a)" filed March 31, 2008. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.182, requesting that the above-referenced application be accorded a filing date of January 11, 2008, including a specification that was omitted on filing.

The petition is **DISMISSED**.

Application papers in the above-identified application were deposited on January 11, 2008. However, on February 5, 2008, the Office of Initial Patent Examination mailed Applicant a "Notice of Incomplete Nonprovisional Application," notifying Applicant that the application papers had not been accorded a filing date because the application was deposited without a specification.

In response, Applicant timely filed this petition along with the associated fee. In which, Petitioner acknowledges inadvertently omitting a specification on submission of the present application. Petitioner argues, however, that entry of specification (that was not the concurrently submitted) is

merited, due to the fact that the application contains a preliminary amendment. It is noted that this preliminary amendment was present on filing, and it directs the entry of a priority claim into the specification - as such, the present application is a continuation of U.S. Application No. 11/019,419. It is further noted that this preliminary amendment contains an incorporation by reference statement.

This submission is being treated as an assertion that a specification was constructively present in the present application on filing, by virtue of the incorporation by reference of the prior-filed non-provisional application to which benefit is claimed, pursuant to M.P.E.P. § 201.06(c)(IV)(A).

Petitioner's arguments and evidence have been considered.

M.P.E.P. § 201.06(c)(IV)(A) sets forth, *in pertinent part*:

> Material needed to accord an application a filing date may not be incorporated by reference unless an appropriate petition under 37 CFR 1.57(a)(3) or under 37 CFR 1.182 is granted. Until such a petition has been granted, the application will not be entitled to a filing date.
>
> ...
>
> 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** (emphasis added), 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.

35 U.S.C. § 120 sets forth, *in pertinent part*:

> 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.

As set forth above, this application is a continuation of U.S. Application No. 11/019,419, and the contents of the same have been incorporated by reference. Thus, pursuant to 35 U.S.C. § 120, the application as filed is considered to have incorporated by reference the parent application as to the inadvertently omitted specification.

In view of the incorporation by reference of the parent application, an amendment directing the entry of the specification of the parent application would not constitute new matter.

However, it does not appear that Petitioner has submitted either a copy of the specification of the parent application[1] or an amendment directing the entry of the specification. As such, this petition cannot be granted.

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. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner may wish to consider filing both a copy of the specification of the parent application and an amendment that directs the entry of the same.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered

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1 Since a copy of the specification of the parent application was not provided with this petition, it follows that there is no specification to enter into the file. As such, even if this petition were to be granted, the file would still be incomplete.

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.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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JUL 21 2008

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

In re Application of	:	
Johnny Valdez	:	DECISION ON RENEWED
Application No. 11/972,874	:	PETITION PURSUANT TO
Date of Deposit: January 11, 2008	:	37 C.F.R. § 1.182
Attorney Docket No. 62145-5001-US01	:	
Title: IMMUNOASSAYS, HAPTENS,	:	
IMMUNOGENS AND ANTIBODIES FOR	:	
ANTI-HIV THERAPEUTICS	:	

This is a decision on the renewed petition filed on July 1, 2008, pursuant to 37 C.F.R. § 1.182, requesting that the above-referenced application be accorded a filing date of January 11, 2008, including a specification that was omitted on filing.

This renewed petition is **DISMISSED**.

Application papers in the above-identified application were deposited on January 11, 2008. However, on February 5, 2008, the Office of Initial Patent Examination mailed Applicant a "Notice of Incomplete Nonprovisional Application," notifying Applicant that the application papers had not been accorded a filing date because the application was deposited without a specification.

In response, Applicant timely filed an original petition pursuant to Rule 1.182 on March 31, 2008, along with the

associated fee. Petitioner acknowledged inadvertently omitting a specification on submission of the present application. Petitioner argued, however, that entry of a specification (that was not concurrently submitted) is merited, due to the fact that the application contains a preliminary amendment. It is noted that this preliminary amendment was present on filing, and it directs the entry of a priority claim into the specification - as such, the present application is a continuation of U.S. Application No. 11/019,419. It is further noted that this preliminary amendment contains an incorporation by reference statement.

The original petition pursuant to Rule 1.182 was treated as an assertion that a specification was constructively present in the present application on filing, by virtue of the incorporation by reference of the prior-filed non-provisional application to which benefit is claimed, pursuant to section 201.06(c)(IV)(A) of the M.P.E.P. The original petition pursuant to Rule 1.182 was dismissed via the mailing of a decision on June 19, 2008, for failure to submit both a copy of the specification of the parent application and an amendment directing the entry of the same.

With this renewed petition, Petitioner has submitted both a copy of the specification of the parent application and an amendment directing the entry of the same. However, **the amendment is contained within the text of this renewed petition**[1], **and as such, neither this renewed petition nor the amendment can be entered,** pursuant to 37 C.F.R. § 1.4(c)[2].

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

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1 See renewed petition, page 1.

2 37 C.F.R. § 1.4(c) sets forth, *in toto*: "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order **must** (emphasis added) be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Petitioner may wish to consider filing an amendment that both directs the entry of the specification that is associated with the parent application and is compliant with Rule 1.4(c).

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[3], hand-delivery[4], or facsimile[5]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted.

A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application.

For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[7].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: MORGAN, LEWIS & BOCKIUS LLP
TWO PALO ALTO SQUARE
3000 EL CAMINO REAL, STE. 700
PALO ALTO, CA 94306

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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ALEXANDRIA, VA 22313-1450
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Paper No.

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Johnny Valdez	:	DECISION ON SECOND
Application No. 11/972,874	:	RENEWED PETITION
Filing Date: January 11, 2008	:	PURSUANT TO
Attorney Docket No. 62145-5001-US01	:	37 C.F.R. § 1.182
Title: IMMUNOASSAYS, HAPTENS,	:	
IMMUNOGENS AND ANTIBODIES FOR	:	
ANTI-HIV THERAPEUTICS	:	

This is a decision on the second renewed petition filed on August 4, 2008, pursuant to 37 C.F.R. § 1.182, requesting that the above-referenced application be accorded a filing date of January 11, 2008, including a specification that was omitted on filing.

This second renewed petition is **GRANTED**.

Application papers in the above-identified application were deposited on January 11, 2008. However, on February 5, 2008, the Office of Initial Patent Examination mailed Applicant a "Notice of Incomplete Nonprovisional Application," notifying Applicant that the application papers had not been accorded a filing date because the application was deposited without a specification.

In response, Applicant timely filed an original petition pursuant to Rule 1.182 on March 31, 2008, along with the associated fee. Petitioner acknowledged inadvertently omitting a specification on submission of the present application. Petitioner argued, however, that entry of a specification (that

was not concurrently submitted) was merited, due to the fact that the application contains a preliminary amendment. It is noted that this preliminary amendment was present on filing, and it directs the entry of a priority claim into the specification - as such, the present application is a continuation of U.S. Application No. 11/019,419. It is further noted that this preliminary amendment contains an incorporation by reference statement.

The original petition pursuant to Rule 1.182 was treated as an assertion that a specification was constructively present in the present application on filing, by virtue of the incorporation by reference of the prior-filed non-provisional application to which benefit is claimed, pursuant to section 201.06(c)(IV)(A) of the MPEP. The original petition pursuant to Rule 1.182 was dismissed via the mailing of a decision on June 19, 2008, for failure to submit both a copy of the specification of the parent application and an amendment directing the entry of the same.

A renewed petition pursuant to 37 C.F.R. § 1.182 was filed on July 1, 2008, and was dismissed via the mailing of a decision on July 21, 2008, due to the fact that Petitioner submitted an amendment that was contained within the text of the renewed petition, and as such, neither the renewed petition nor the amendment could be entered, pursuant to 37 C.F.R. § 1.4(c).

With this second renewed petition, Petitioner has submitted, *inter alia*, another copy of the specification, along with an amendment directing the entry of the same.

Both the specification and the amendment received on August 4, 2008 will, of course, be reviewed by the Examiner for new matter.[1] The amendment is not new matter if the substance was a part of the disclosure of prior-filed U.S. Application No. 11/019,419, to which benefit is claimed.

It is noted in passing that with this petition, Petitioner has concurrently submitted 28 pages of claims, a one-page abstract, and a copy of Figure 1. These items will not be entered, due to

[1] See MPEP §§ 608.02(h) and 608.04.

the fact that Petitioner has not submitted an amendment directing the entry of the same.[2]

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing with a **filing date of January 11, 2008**, using the original application papers filed on that date, as well as the 106 pages of specification that were submitted on August 4, 2008. **OPAP will then mail a filing receipt.**

Neither the 28 pages of claims, the one-page abstract, nor the copy of Figure 1 that was submitted on August 4, 2008 will be entered at this time.

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.[3]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 The amendment that was submitted on August 4, 2008 directs the entry of the "specification of the parent application," and makes no reference to the concurrently submitted claims, abstract, or drawing. See 37 C.F.R. § 1.121(a).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

MAILED

JAN 28 2010

OFFICE OF PETITIONS

In re Application of :
David P. Morrell :
Application No. 11/972,997 :
Filed: January 11, 2008 :
Attorney Docket No. 112055-0114U :
For: Delay Stabilization for Skew Tolerance :

Decision Refusing to Accord
Status Under 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b) filed January 11, 2008.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(b) requires:

(1) Proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) An acceptable oath or declaration;
(3) The petition fee;
(4) A statement of the last known address of the non-signing inventor;
(5) Proof of proprietary interest; and
(6) Proof of irreparable damage.

The petition lacks item (2).

The Declaration does not comply with 37 CFR 1.63 because Attorney Edwin Paul signed the inventor's name on the declaration. Specifically, the hand-written signature on the declaration states, "David H. Morill by Edwin H. Paul Reg. # 31405."

There is no provision in the rules of practice that allows someone other than *the* inventor to sign *the* inventor's name to the oath or Declaration. The signature block for inventor Morrill should

either be left blank with a separate signature block added for the attorney or Attorney Paul should affix his *own* name therein on behalf of the inventor.

Language appears to be missing from the declaration. Language from the last sentence on the first page does not match language in the first sentence on the second page. Specifically, combining the language results in the following sentence:

> I acknowledge the duty to disclose all information that is material to patentability ... which became available to me between including petitions, specifications, and oaths, and all assignments, disclaimers and lawful affidavits ... requested by the Assignee.

Petitioner should ensure the any new declaration is complete.

Although the first paragraph on the second page appears incomplete as indicated above, the paragraph appears to constitute an attempt by Fairchild Semiconductor Corporation ("Fairchild") to assign the application to itself. 37 CFR 1.47(b) provides a mechanism by which a party with sufficient propriety interest in a matter may prosecution an application on behalf of and as agent for the inventor(s). The regulation does not allow a company to assign an application to itself.

Any declaration filed with a request for reconsideration should not include language assigning any rights in the application to any party.

The petition states $130 is being submitted for the petition fee. However, $130 was not charged to petitioner's deposit account when the petition was filed and the correct amount of the fee was, and continues to be, $200. Therefore, the Office has charged $200 to petitioner's deposit account.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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MAR 05 2010

In re Application of :
David P. Morrell :
Application No. 11/972,997 :
Filed: January 11, 2008 :
Attorney Docket No. 112055-0114U :
For: Delay Stabilization for Skew Tolerance :

Decision According Status
Under 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b) filed February 8, 2010, and supplemented March 2, 2010.

The petition is **granted**.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 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.

Technology Center Art Unit 2857 will be informed the petition has been granted and the declaration filed March 2, 2010, accepted without the signature of the sole inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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David P. Morrill
62 Mussey Rd
Scarborough, ME 04074

COPY MAILED
MAR 05 2010

In re Application of :
David P. Morrell :
Application No. 11/972,997 :
Filed: January 11, 2008 :
Attorney Docket No. 112055-0114U :
For: Delay Stabilization for Skew Tolerance :

Letter

Mr. Morrill:

You are named as the inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated as the inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers in the file wrapper. 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).

General requests for information regarding the application should be directed to the File Information Unit at (703) 308-2733.

Telephone inquiries regarding this communication may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

UNITED STATES PATENT AND TRADEMARK OFFICE

0 2 MAR 2010

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Nancy Chiu Wilker, Ph.D.
Chief Intellectual Property Counsel
Cell Signaling Technology, Inc.
3 Trask Lane
Danvers, MA 01923

In re Application of :
GROSS et al. :
Application No.: 11/973,019 :
Filed: October 05, 2007 : DECISION ON PETITION
Attorney Docket No.: CST-221 :
For: REAGENTS FOR THE DETECTION OF PROTEIN PHOSPHORYLATION IN LEUKEMIA SIGNALING PATHWAYS :

This decision is issued in response to applicant's "Petition under 37 CFR 1.78(a)(3)" dated January 21, 2009, requesting acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 365(c) to international application PCT/US2006/000979. Because the accompanying amendment also adds a benefit claim to a prior filed provisional application, the petition 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 the prior-filed provisional application.

The petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and (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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Here, the amendment submitted with the present petition indicates that "this is a U.S. National Stage Entry of International Application No. PCT/US06/000979 filed January 12, 2006 . . ." The present nonprovisional application is considered a filing under 35 U.S.C. 111, as explained below. The amendment fails to state the proper relationship of the present application to International Application No. PCT/US2006/000979 filed January 12, 2006 and U.S. provisional application 60/651,583. (See 37 CFR 1.78(a)(2)(i)) Therefore, the amendment filed January 21, 2009 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

It is noted that any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-190 of the MPEP (Eighth edition Rev. 5) states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On October 05, 2007, applicant submitted a transmittal letter entitled "Request for Filing a New Nonprovisional Application under 37 CFR 1.53" for a Utility Patent Application Under 37 CFR 1.53(b). The submission of a transmittal letter for an utility patent application under 37 CFR 1.53(b) is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on October 05, 2007 were properly treated as a filing under 35 U.S.C. 111(a).

Therefore, before the petition under 37 CFR § 1.78(a)(3) and (a)(6) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

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.

Boris Milef
Senior PCT Legal Examiner
Office of PCT Legal Administration

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THE HALLE BUILDING
CLEVELAND, OH 44115-1843

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
Anil M. Rao :
Application No. 11/973,025 : DECISION DISMISSING
Filed: October 6, 2007 : PETITION
Attorney Docket No. LUTZ 2 00558 Rao 28 :

This is a decision on the petition under 37 CFR 1.10(d), filed May 20, 2009, requesting that the above-identified application be accorded a filing date of October 5, 2007, rather than the presently accorded date of October 6, 2007.

The petition is **DISMISSED**.

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS.

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail." Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log. Conversely, evidence created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail") cannot be accepted under the terms of the rule.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 5, 2007, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by: copies of the new application transmittal letter, the assignment recordation form cover sheet, post card stamped by USPTO, the express mail receipt, the track and confirm data sheet and the express mail sheet generated by the petitioner's Office.

A grantable petition under 37 CFR 1.10(d) must include:

> (1) The filing of a petition promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The placement of the "Express Mail" number on the mailing label of the paper(s) or fee(s) that constitutes the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) A showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition lacks item (2). The assignment recordation form cover sheet, which includes the "Express Mail" number, is not part of the application papers. To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient. See MPEP 513(III).

Section 1.10(d) permits the Office to correct a USPS "date-in" error when the correspondence is deposited in an Express Mail drop box prior to the last scheduled pickup of the day; that is, the time clearly marked on the Express Mail drop box, including when the box will be cleared for the last time on the date of deposit. The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date in," or other official USPS notation, on the "Express Mail" mailing label. Note that the correspondence must be entrusted either to a postal service employee or an Express Mail drop box for the correspondence to have been deposited as Express Mail Post Office to Addressee service of the USPS within the meaning of 37 CFR 1.10(d). *See* Nitto Chemical Industry Co. Ltd. v. Comer, 39 USPQ 1778, 1781-82 (D.D.C. 1994). That is, consignment of Express Mail correspondence to a first class mail bin at the USPS does not properly entrust the correspondence to the custody of the USPS for purposes of 37 CFR 1.10.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to

the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to the Office of Patent Application Processing with the presently accorded filing date of October 6, 2007.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to April M. Wise at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVENUE
NEW YORK, NY 10103-3198

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OFFICE OF PETITIONS

In re Application of

Jonas Ulenas
Application No. 11/973,068
Filed: October 5, 2007
Attorney Docket No. NY-JONAS 205-US2

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 October 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 photocopy of applicant's passport. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

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 2182 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/973,086	10/05/2007	Klaus Witt	20060647-02	1076

7590 11/30/2009

AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER	
KASTURE, DNYANESH G	
ART UNIT	**PAPER NUMBER**
3746	
NOTIFICATION DATE	**DELIVERY MODE**
11/30/2009	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: 11/25/2009 NFARMER
10/10/2007 TNGUYEN2 00000002 501078 11973086
02 FC:1111 510.00 CR

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Ohtsu et al.	:	
Application No. 11/973, 152	:	DECISION ON PETITION
Filed: October 5, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 16869G-086711US	:	

This is a decision on the petition under 37 CFR 1.55(c), filed July 2, 2008 to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Application No. 2002-267552, filed September 13, 2002.

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 October 5, 2007, which is after November 29, 2000. On July 2, 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 the petition. 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. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Petitioner is reminded that the correct priority document, Japanese application 2002-267552, still needs to be submitted since the document submitted on November 15, 2007 is for the incorrect Japanese application.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2627 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 Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/973,152	10/05/2007	2627	1030	16869G-086711US	5	2

CONFIRMATION NO. 1544

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC00000033905752

Date Mailed: 01/05/2009

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)

Takayoshi Ohtsu, Kanagawa-ken, JAPAN;
Satoshi Shigematsu, Kanagawa-ken, JAPAN;
Kouji Nishioka, Kanagawa-ken, JAPAN;
Takao Imagawa, Kanagawa-ken, JAPAN;
Kouji Kataoka, Kanagawa-ken, JAPAN;
Masatoshi Arasawa, Kanagawa-ken, JAPAN;
Norifumi Miyamoto, Kanagawa-ken, JAPAN;

Assignment For Published Patent Application

Hitachi, Ltd., Odawara-shi, JAPAN
Hitachi Global Storage Technologies

Power of Attorney:

Robert Colwell--27431
George Yee--37478
Babak Sani--37495
Chun-Pok Leung--41405
Barmak Sani--45068

Domestic Priority data as claimed by applicant

This application is a CON of 11/372,302 03/08/2006 PAT 7,292,416
which is a CON of 10/660,865 09/11/2003 PAT 7,031,123

Foreign Applications

JAPAN 2002-267552 09/13/2002

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: 11/14/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/973,152**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Magnetic resistive head and magnetic recording apparatus

Preliminary Class

360

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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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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SAN FRANCISCO CA 94111-3834

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Ohtsu et al. :
Application No. 11/973, 152 : DECISION ON PETITION
Filed: October 5, 2007 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 16869G-086711US :

This is a decision on the petition under 37 CFR 1.55(c), filed July 2, 2008 to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Application No. 2002-267552, filed September 13, 2002.

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 October 5, 2007, which is after November 29, 2000 and within 12 months of September 13, 2002 (the filing date of the foreign application to which benefit is now being claimed). On July 2, 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 the petition. 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. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Petitioner is reminded that the correct priority document, Japanese application 2002-267552, still needs to be submitted since the document submitted on November 15, 2007 is for the incorrect Japanese application.

The surcharge fee in the amount of $1410.00 will be refunded to deposit account no. 20-1430.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2627 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 Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/973,152	10/05/2007	2627	1030	16869G-086711US	5	2

CONFIRMATION NO. 1544

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 01/23/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

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Norifumi Miyamoto, Kanagawa-ken, JAPAN;

Assignment For Published Patent Application

Hitachi, Ltd., Odawara-shi, JAPAN
Hitachi Global Storage Technologies

Power of Attorney:

Robert Colwell--27431
George Yee--37478
Babak Sani--37495
Chun-Pok Leung--41405
Barmak Sani--45068

Domestic Priority data as claimed by applicant

This application is a CON of 11/372,302 03/08/2006 PAT 7,292,416
which is a CON of 10/660,865 09/11/2003 PAT 7,031,123

Foreign Applications

JAPAN 2002-267552 09/13/2002

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If Required, Foreign Filing License Granted: 11/14/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/973,152**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Magnetic resistive head and magnetic recording apparatus

Preliminary Class

360

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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RALEIGH, NC 27611-8539

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OFFICE OF PETITIONS

In re Application of
John F. LYONS, JR.
Application No. 11/973,158
Filed: October 5, 2007
Attorney Docket No. 4062-001

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 10, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that all of the acts noted above 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: JOHN F. LYONS, JR.
3820 ECHO FARMS BLVD.
WILMINGTON, NC 28412

UNITED STATES PATENT AND TRADEMARK OFFICE

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RALEIGH, NC 27611-8539

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	CORRECTED
John F. LYONS JR.	:	DECISION ON PETITION
Application No. 11/973,158	:	TO WITHDRAW
Filed: October 5, 2007	:	FROM RECORD
Attorney Docket No. 4062-001	:	

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 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 Jinan Glasgow on behalf of the attorneys of record associated with Customer No. 64843.

The attorneys of record associated with Customer No. 64843 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN F. LYONS
3820 ECHO FARMS BLVD.
WILMINGTON, NC 28412

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LAW OFFICE OF DENNIS W. BEECH
P.O. BOX 519
MURRIETA, CA 92564-0519

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OFFICE OF PETITIONS

In re Application of	:	
Charles William Russell, Sr.	:	
Application No. 11/973,176	:	DECISION ON PETITION
Filed: October 6, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 6, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

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 3748 for action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ella Delores Davis
271 Sugar Creek Road
Quitman LA 71268

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SEP 25 2008

In re Application of	:	
Ella Delores DAVIS	:	
Application No. 11/973,196	:	DECISION ON PETITION
Filed: October 05, 2007	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 2, 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 January 3, 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 abstract, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received.

David Bucci
Petitions Examiner
Office of Petitions

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DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of :
BRAILEAN et al. :
Application No. 11/973,211 :
Filed: 10/09/2007 :
Attorney Docket No. PWS-P-07-001 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2008, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the Notice to File Corrected Application Papers mailed November 7, 2007, which set a two-month extendable period to correct any informality. The above-identified application became abandoned on January 8, 2008. A Notice of Abandonment was mailed on July 14, 2008.

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 for further processing of the reply filed on July 28, 2008.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Stephen G. Turney et al. :
Application No. 11/973,272 : DECISION ON PETITION
Date of Deposit: October 5, 2007 : PURSUANT TO
Attorney Docket No.: 0725.2003-000 : 37 C.F.R. § 1.182
Title: SYSTEM AND METHODS FOR THICK SPECIMEN IMAGING USING A MICROSCOPE BASED TISSUE SECTIONING DEVICE :

This is a decision on the petition filed on January 8, 2008, pursuant to 37 C.F.R. § 1.182, requesting that this application, including 18 sheets of drawings, be accorded a filing date of October 5, 2007 as part of the original disclosure. Petitioner has further requested that the compact discs that were provided on filing be accepted.

This petition is **DISMISSED.**

This application was deposited on October 5, 2007. However, on November 9, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating, *inter alia*, that the application had not been accorded a filing date, that a filing date would be accorded upon the deposit of drawings, and that the compact disc that was presented of filing could not be accepted as it contains non-ASCII files.

With this petition, Petitioner has asserted that 18 pages of drawings were presented on filing. Petitioner has further argued that the Office should have accepted the compact disc. Both of these requests have been presented on the same sheet of

paper[1]. For this reason, the petition cannot be accepted, pursuant to 37 C.F.R. § 1.4(c), which sets forth, *in toto*:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper (emphasis added) to avoid confusion and delay in answering papers dealing with different subjects.

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. **Petitioner should include two separate petitions**. Each should include a cover letter entitled "Renewed Petition Pursuant to 37 C.F.R. § 1.182." This is not a final agency action within the meaning of 5 U.S.C § 704.

The petition pertaining to the according of a filing date to this application should indicate in a prominent manner that the attorney handling this matter is **Paul Shanoski.**

The petition pertaining to the compact disc that was presented on filing should indicate in a prominent manner that the petition should be handled by the **Office of Patent Application Processing (OPAP)**.

Each petition 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 either the undersigned's name or "OPAP" 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 respective deciding official.

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1 See page 2 of the petition.
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

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

---

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.

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

COPY MAILED

JUL 24 2008

In re Application of	:	
Stephen G. Turney et al.	:	
Application No. 11/973,272	:	DECISION ON TWO PETITIONS
Filed: October 5, 2007	:	PURSUANT TO
Attorney Docket No.: 0725.2003-000	:	37 C.F.R. § 1.182
Title: SYSTEM AND METHODS FOR THICK SPECIMEN IMAGING USING A MICROSCOPE BASED TISSUE SECTIONING DEVICE	:	

This is a decision on the renewed petition filed on May 22, 2008, pursuant to 37 C.F.R. § 1.182, requesting that this application, including 18 sheets of drawings, be accorded a filing date of October 5, 2007 as part of the original disclosure. This is also a decision on the petition filed on July 22, 2008, pursuant to 37 C.F.R. § 1.182, requesting expedited handling of the renewed petition.

The petition pursuant to Rule 1.182 is **GRANTED**.

The renewed petition pursuant to Rule 1.182 is **GRANTED**.

The petition pursuant to Rule 1.182:

The renewed petition pursuant to Rule 1.182 will receive expedited handling. Receipt of the fee that is associated with the filing of this petition pursuant to Rule 1.182 is acknowledged.

The renewed petition pursuant to Rule 1.182:

This application was deposited on October 5, 2007. However, on November 9, 2007, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional

Application" (notice), stating, *inter alia*, that the application had not been accorded a filing date, that a filing date would be accorded upon the deposit of drawings, and that the compact disc that was presented of filing could not be accepted as it contains non-ASCII files.

As set forth above, an original petition pursuant to Rule 1.182 was filed on January 8, 2008, requesting that this application, including 18 sheets of drawings, be accorded a filing date of October 5, 2007 as part of the original disclosure. The original petition also contained a request that the compact discs that were provided on filing be accepted.

The original petition pursuant to Rule 1.182 was dismissed via the mailing of a decision on March 19, 2008, due to the fact that both of the requests were presented on the same sheet of paper, in contravention to the requirements of Rule 1.4(c).

With this renewed petition, Petitioner has asserted that "[d]rawings" were presented on filing[1].

Petitioner's arguments and evidence have been considered. However, it is controlling that a review of the application confirms that as filed, the application contained at least one method claim. Section 601.01(f) of the M.P.E.P. provides:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

Thus, pursuant to M.P.E.P. § 601.01(f), a drawing is not considered essential for a filing date. Therefore, the application is entitled to a filing date without drawings present in the application. Accordingly, the Office should have mailed a Notice of Omitted Items and not a Notice of Incomplete Nonprovisional Application.

No petition is required. Given the basis for granting this petition, no petition fee is required. The petition fee has not been charged to Petitioner's Deposit Account.

Moreover, with this renewed petition, Petitioner has included a copy of applicants' postcard receipt acknowledging receipt of "Drawings - Total sheets 18" in the United States Patent and Trademark Office (Office) on October 5, 2007. Applicants

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1 See page 2 of renewed petition.

request that this application, including each of these 18 sheets of drawings, be accorded a filing date of October 5, 2007.

No sheets of drawings have been located among the application papers in the electronic file. However, the evidence is convincing that the application papers deposited on October 5, 2007 included 18 sheets of drawings, and each of these sheets was subsequently misplaced in the Office.

Therefore, the application, including 18 sheets of drawings, was complete on filing and entitled to a filing date of October 5, 2007, as part of the original disclosure.

This renewed petition will be construed to contain an amendment requesting the entry of the 18 sheets of drawings that were submitted on January 8, 2008.

The Office of Patent Application Processing (OPAP) will be notified that **the application should receive a filing date of October 5, 2007,** using the original application papers filed on that date, as well as the 18 sheets of drawings submitted on January 8, 2008, and it will be noted in Office records that **these 18 sheets of drawings were present on filing.** OPAP will then **mail a filing receipt.**

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE, LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
John M. Holt :
Application No. 11/973,374 : ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. 61130-8024.U :
S02 (5027Y-US) :

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed on February 15, 2008. A Notice of Abandonment was mailed October 22, 2008.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of R. Michael Ananian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of one sheet of replacement drawings containing Figures 3; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
WARATEK
P.O. BOX 10500
MCLEAN, VA 22102

MAILED

MAY 14 2010

OFFICE OF PETITIONS

In re Application of :
John T. Holt :
Application No. 11/973,385 : DECISION GRANTING PETITION
Filed: October 5, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 32199-0384263/5027T-US03 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 13, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 29, 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 2185 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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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
John M. Holt :
Application No. 11/973,394 : DECISION ON PETITION
Filed: October 5, 2007 :
Attorney Docket No. 611308023/1 5027X-US01 :

This is a decision on the petition, filed May 29, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Corrected Application Papers of April 2, 2008, which set a two (2) month period for reply.

A response to the Notice to file Corrected Application Papers mailed April 2, 2008 was received on April 23, 2008. In this response, petitioner states "Applicant already filed a Substitute Specification and a Markup Specification in response to the original Notice to File Missing Parts mailed November 6, 2007." This response was received February 6, 2008.

The holding of abandonment for failure to timely file a reply to the Notice to File Corrected Application Papers of April 2, 2008 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 17 2007

OFFICE OF PETITIONS

KATHLEEN VAN DYNE
431 SW 35TH STREET
CAPE CORAL FL 33914

In re Application of :
Van Dyke :
Filed: October 9, 2007 : ON PETITION
Application No. 11/973,427 :
Atty. Dkt. No.: VA-PT01 :

This decision is in response to the petition, filed December 3, 2007, to accord the above-identified application a filing date of October 9, 2007 with 4 sheets of drawings as part of the original application as filed.

The application was submitted October 9, 2007. The Notice mailed November 14, 2007 indicated that the application had not been accorded a filing date because drawings appeared to have been omitted from the application as filed.

In response, petitioner argues that the application as deposited included 4 sheets of drawings. As proof of mailing and proof of receipt of the 4 sheets of drawings, petitioner has submitted a copy of a return postcard date stamped by the Office on December 9, 2007. A copy of items purportedly filed with the application was submitted herewith.

The original 4 sheets of drawings have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of October 9, 2007 is GRANTED.

Since the original 4 sheets of drawings cannot be located in the Office, the copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. A refund will issue in due course.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 9, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MI YAN
6076 BASSWOOD DRIVE
COLUMBUS IN 47201

COPY MAILED

DEC 07 2009

OFFICE OF PETITIONS

In re Application of
Mi Yan
Application No. 11/973,457
Filed: October 9, 2007
For: STANDALONE THERMAL ENERGY RECYCLING DEVICE FOR ENGINE AFTER-TREATMENTS SYSTEMS

DECISION ON PETITION

This is a decision on the communication filed September 15 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply in a timely manner to the nonfinal rejection mailed November 12, 2008. A Notice of Abandonment was mailed on September 3, 2009.

Applicant files the present petition and asserts that an extension of time under 37 CFR 1.136(a) (Form SB0022) together with $65 fee (for one month extension) was filed by applicant on May 10, 2009.

A review of Office records show that an extension of time and fee of $65.00 was received in the USPTO on May 13, 2009. Therefore, the extension of time was received after the expiration of the time period for reply which expired on May 12, 2009, as was indicated in the Notice of Abandonment mailed September 3, 2009.

Petitioner may 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 petition fee set forth in 37 CFR 1.17(m).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/973,459	10/09/2007	Thomas A. Waltz	07071	1192

20879 7590 08/31/2009

EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO, OH 43697

EXAMINER	
SPINELLA, KEVIN	

ART UNIT	PAPER NUMBER
2885	

MAIL DATE	DELIVERY MODE
08/31/2009	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

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EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P. O. BOX 916
ONE SEAGATE SUITE 1980
TOLEDO, OH 43697

In re Application of:
WALTZ et al.
Appplication Serial No.: 11/973,459
Filed: October 9, 2007
For: EDUCATIONAL LIGHTING KIT

DECISION ON PETITION FOR COLOR DRAWINGS
37 CFR 1.84(a)(2)) and (b)(2).

This is a decision is in response to the petition filed January 4, 2008 in the above-identified application. Petition request that color drawings be accepted in accordance with 37 C.F.R. 1.84 (a)(2) and (b)(2).

The petition state that Figures 1 and 2 are color drawings necessary to distinguish the results of the floor placement which does not clearly show in black and white respectively. The petition complies with 37 C.F.R. 1.84 (a)(2) in that it was accompanied by (i) the appropriate fee and (ii) at least three sets of color drawings.

However, the papers filed on January 4, 2008 do **NOT** fulfill the requirements set forth in 37 C.F.R. 1.84 (a)(2) because Applicants failed to file an amendment to the specification to insert the language as the first paragraph of the brief description of the drawings in compliance with the requirement set forth in 37 C.F.R. 1.84 (a)(2) (iii).

Accordingly, the petition is **DENIED**.

Jong-Suk (James) Lee
Supervisory Patent Examiner
Art Unit 2885

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

ALEKSANDR SMUSHKOVICH
PO BOX 140505
BROOKLYN, NY 11214

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Alexandr Plyaskin :
Application No. 11/973,480 : DECISION ON PETITION
Filed: October 9, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 9, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of applicant's drivers license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert C. Curfiss
19826 Sundance Drive
Humble TX 77346

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DEC 09 2008

In re Application of :
James H. Hume :
Application No. 11/973,489 : ON PETITION
Filed: October 9, 2007 :
Attorney Docket No. Hume Columbarium :
10/09/20

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 1, 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 January 2, 2008. The Notice of Abandonment was mailed July 9, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The reply that was required in the Notice to File Missing Parts is incomplete. The replacement drawings, the application search fee, and examination fee was omitted. Enclosed is a copy of the Notice to File Missing Parts that was mailed on November 1, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $820 extension of time fee submitted with the petition on August 18, 2008 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request. Alternately, a portion of the $820 may be applied to the feeds required in the Notice.

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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enclosed: Copy of the Notice to File Missing Parts

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
11/973,489	10/09/2007	James H. Hume	Hume Columbarium 10/09/20

CONFIRMATION NO. 3055

Robert C. Curfiss
19826 Sundance Drive
Humble, TX 77346

FORMALITIES LETTER

OC000000026545796

Date Mailed: 11/01/2007

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 application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) All.
  - The drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(l) and (p)(1)); See Figure(s) 1, 3, 5.
  - The drawings submitted to the Office are not electronically reproducible because portions of figures 2, 6, 7 are missing and/or blurry.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

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 **$370** for a small entity

- **$65** Surcharge.
- The application search fee has not been paid. Applicant must submit **$255** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$105** to complete the examination fee for a small entity in compliance with 37 CFR 1.27.

(A previous payment of **$55** will be applied to the additional fees indicated above.)

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.

/masfaw/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

Robert C. Curfiss
19826 Sundance Drive
Humble TX 77346-1402

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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
James H. Hume	:	
Application No. 11/973,489	:	DECISION ON PETITION
Filing Date: October 9, 2007	:	
Attorney Docket No. Hume 10-09-2007	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 (Notice), mailed November 1, 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 January 2, 2008. The Notice of Abandonment was mailed July 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a new oath, replacement drawings, $65 surcharge, $270 search fee and $110 examination fee, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

The examination and search fee (a total of $380) has been paid by applying the $820 extension of time refund. The $440 will be refunded by treasury check in addition to the $55 previously paid making the total refund $495.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

This application is being referred to the Office Patent Application Processing for further action.

Chris Bottorff
Petitions Examiner
Office of Petitions

OIPE MAIL
AUG 18 2008
PATENT & TRADEMARK OFFICE

PTO/SB/22 (08-08)
Approved for use through 08/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2008 *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) HUME '489
Application Number 11/973,389	Filed 10/09/2007
For MODULAR COLUMBARIUM SYSTEM	Adjustment date: 04/23/2009 CKHLOK 10/12/2007 WASFAW1 00000016 11973489 02 FC:2622 -55.00 OP
Art Unit NA	Examiner NA

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☐	Two months (37 CFR 1.17(a)(2))	$460	$230	$
☐	Three months (37 CFR 1.17(a)(3))	$1050	$525	$
☑	Four months (37 CFR 1.17(a)(4))	$1640	$820	$ 820.00
☐	Five months (37 CFR 1.17(a)(5))	$2230	$1115	$

Refund Ref: 00000069224
Credit Card Refund Total: $440.00

08/19/2008 MGEBREM1 00000060 11973489
Am Exp..: XXXXXXXXXXX2000 820.00 OP
02 FC:2254

☑ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☑ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

Refund Ref: 00000069223
04/23/2009

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 26540 Credit Card Refund Total: $55.00

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ Am Exp..: XXXXXXXXXXX2000

Signature	AUGUST 14, 2008 Date
ROBERT C. CURFISS Typed or printed name	832-573-1442 Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

04/23/2009 CKHLOK 00000004 11973489

01 FC:2111 270.00 OP
02 FC:2311 110.00 OP

Adjustment date: 04/23/2009 CKHLOK
08/19/2008 MGEBREM1 00000060 11973489
02 FC:2254 -820.00 OP

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/21/09 | 2 Serial/Patent # 11/973,489

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		08/18/08	$ 440.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other		10/09/07	$ 55.00

7 TOTAL AMOUNT OF REFUND: $ 495.00

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension of time and undetermine claims fee unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhlok DATE: 4/23/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

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MAR 0 5 2008

OFFICE OF PETITIONS

HOWARD IP LAW GROUP
P.O. BOX 226
FORT WASHINGTON PA 19034

In re Application of :

KURTZ, Anthony D. et al. :
Application No. 11/973,507 : DECISION ON PETITION
Filed: October 09, 2007 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, files were reassigned to the below mentioned firm, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THE PLEVY LAW FIRM**
10 RUTGERS PLACE
TRENTON, NJ 08618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DENNIS L. COOK, ESQ.
THE LAW OFFICES OF DENNIS L COOK PLLC
12718 DUPONT CIRCLE
TAMPA FL 33626

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SEP 15 2008

In re Application of	:	
Bobier, et al.	:	
Deposited: October 9, 2007	:	ON PETITION
Application No. 11/973,521	:	
Atty. Dkt. No.: DCP0005-08UT	:	

This decision is in response to the petition "PETITION UNDER 37 CFR 1.57(a)," filed December 3, 2007.

The petition is hereby DISMISSED.

The application was deposited October 9, 2007 as a "Continuation-In-Part" (CIP) of application 10/765,442. However, on November 8, 2007, the Office of Patent Application Processing mailed applicants a Notice of Incomplete Nonprovisional Application (Notice), notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a specification as required per 35 USC 112. In response, applicants timely filed this petition.

The Notice indicated that the filing date would be the date of receipt of all items indicated as omitted, unless otherwise indicated in the Notice. The Notice required that any assertions that the item(s) were submitted or were not necessary for a filing date, must be by way of petition (accompanied by required petition fee).

The Notice further indicated that if the application contained a priority claim under 37 CFR 1.55 or benefit claim under 37 CFR 1.78 of a prior-filed application that was present on the filing date of the application and applicants want to rely on 37 CFR 1.57(a) to add inadvertently omitted material to the above-identified application, applicants must file a petition under 37 CFR 1.57(a) accompanied by the $400.00 petition fee (37 CFR 1.17(f)) within TWO MONTHS of the date of this Notice.

Applicants argue that the instant application contains "cross references to the below-referenced priority applications": U.S. Serial No. 10/765,442, filed on January 27, 2004 and U.S. Serial No. 60/442,716, filed on January 27, 2003.

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). See, 37 CFR 1.57(a).

In accordance with 37 CFR 1.57(a)(1), [t]he 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.

Based upon applicants' statement, it is unclear what applicant is making a claim for priority to since 37 CFR 1.78 requires that the relationship of all the applications in a benefit claim be specified. There is some ambiguity in the originally filed Application Data Sheet (ADS) because the relationship was not stated.

37 CFR 1.78(a)(2)(i) requires that any non-provisional application claiming the benefit of one or more prior-filed co-pending non-provisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional,

or continuation-in-part of a prior-filed non-provisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each non-provisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent non-provisional application. See MPEP Section 201.11, Reference to Prior Non-provisional Applications. Thus, the benefit claim was improper on the filing of the present application.

Furthermore, applicants have indicated that the present application is a CIP of application No. 10/765,442. This would be an impossibility given that a CIP contains additional subject matter not contained in the parent application. Under the provisions of 37 CFR 1.57(a), the inadvertently omitted subject matter to be added to the application must be complete contained within the prior application. Thus, no new matter may be present. Without the presence of new matter, there can be no CIP application. Therefore, if it is the entire specification applicants are attempting to file as the inadvertently omitted portion of the specification, the application cannot contain new matter and is thus not a CIP.

Moreover, in accordance with 37 CFR 1.57(f), "[a]ny insertion of material incorporated by reference into the specification or drawings of an application must be by way of an amendment to the specification or drawings. Such an amendment must be accompanied by a statement that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter."

No such amendment has been provided herewith and as such, the petition fails to satisfy 37 CFR 1.57(a)(3). Any renewed petition must be accompanied by a preliminary amendment requesting entry of the omitted specification and including a statement that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter prior to the issuance of the first Office action on the merits to avoid delays in examination.

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 1.57." Extensions of time under 37 CFR 1.136 are not available.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 2231

The required petition fee of $400.00 will not be refunded since the petition was necessary to correct petitioners' filing error.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Jeffrey B. Epp et al :
Application No. 11/973,543 : DECISION ON PETITION
Filed: October 9, 2007 :
Attorney Docket No. 64591B US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed November 18, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
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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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Peter A. Vrame	: DECISION ON REQUEST FOR
Patent Number	: 7595447	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/973,579	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON TX 77054

In re Application of :
Whitney Reed et al. :
Application No. 11/973,611 : DECISION ON PETITION
Filed: 10/10/2007 :
Title: AIR/HYDRAULIC INJECTION :
LUBRICATION UNIT :

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

On November 8, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to reply. In the absence of a timely and complete reply to the Notice to File Missing Parts of Nonprovisional Application, the application became abandoned and a Notice of Abandonment was mailed on January 29, 2009.

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 an acceptable statement of unintentional delay.

This matter is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries specific 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
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
John Ruprecht : DECISION ON PETITION
Application No. 11/973,617 :
Filed: October 10, 2007 :
Title: HIGH BACK PRESSURE :
FILTER FOR REMOVING NON-WATER :
COMPONENT(S) FROM WATER :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 12, 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 December 3, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice, with extensions of time under the provisions of 37 CFR 1.136(a) obtainable. No reply received and no extension of time obtained, the above-identified application became abandoned on February 4, 2008. A courtesy Notice of Abandonment was mailed on August 13, 2008.

Applicant has satisfied the requirements of 37 CFR 1.137(b). The petition includes the required reply in the form of payment of the outstanding claim fees; the petition fee; and the required statement of unintentional delay.

It is noted that the statement of unintentional delay was made by attorney Charles Segelbaum, who was appointed as attorney of

record after the abandonment of the application by sole inventor Ruprecht on behalf of the assignee. An assignment from the sole inventor to the Clean & Clear Corporation was executed on August 2008. Given sole inventor Ruprecht's relationship to the assignee company and attorney Segelbaum representation of that company, it appears that attorney Segelbaum 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 application is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the additional claim fees, submitted on petition filed September 12, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID GRAHAM
APT 104
9819 96 A ST
EDMONTON AB T6A 4A2 CANADA

MAILED

JAN 13 2010

OFFICE OF PETITIONS

In re Application of :
Graha, David John :
Application No. 11/973,619 : ON PETITION
Filed: October 9, 2007 :
Title: GRAHAM POWER, A NEW METHOD OF GENERATING POWER :

This is a decision on the petition, filed July 8, 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.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely *and properly* respond to the Notice to File Missing Parts (Notice) of November 2, 2007, which set a two (2) month shortened statutory period for reply. Accordingly, a proper reply was due on or before January 2, 2008.

Petitioner states that a timely reply was received by the USPTO on December 31, 2007, which included a Response, along with a check for $450.00. Petitioner has submitted a copy of the previously mailed correspondence.

The response was timely received on December 31, 2007. However, the amount submitted by the petitioner was not enough to fully comply with the fees required by the Notice. Petitioner was required to submit the following fees:

1) $65.00 late surcharge
2) $105.00 examination fee
3) $210.00 for 2 independent claims over 3
4) $185.00 for multiple dependent claim surcharge

The total required above is $565.00. However, there was a $90.00 credit to the instant application, bringing the total fee requirement down to $475.00, as listed on the Notice.

Petitioner submitted a $450.00 check and therefore was $25.00 short. A Notice of Incomplete Reply (Nonprovisional) was mailed on January 14, 2008, notifying petitioner of the deficiency. A copy of the above Notice is enclosed for petitioner's convenience.

Accordingly, the petition to withdraw the holding of abandonment is hereby dismissed. Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office

action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop 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

Enclosure: Notice of Incomplete Reply (Nonprovisional)
PTO/SB/64 – Petition to Revive under 37 CFR 1.137(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/973,619	10/09/2007	David John Graham	

CONFIRMATION NO. 1635

FORMALITIES LETTER

David Graham
Apt 104
9819 96 A St
Edmonton, AB T6A 4A2
CANADA

Date Mailed: 01/14/2008

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 12/31/2007 to the Notice to File Missing Parts (Notice) mailed 11/02/2007 and it has been entered into the nonprovisional application.The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Items Required to Avoid Abandonment:

The required items noted below SHOULD be filed along with any items required above. The filing date of this nonprovisional application will be the date of receipt of the items required above.

The 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 **$105** as a 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.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$25** for a small entity
- Total additional claim fee(s) for this application is **$105**
  - **$105** for **2** independent claims over 3.

(A previous payment of **$80** will be applied to the additional fees indicated above.)

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.

/tgebre/

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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Garlick Harrison & Markison (CS)
P.O. Box 160727
Austin, TX 78716

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Application of :
S. Christopher Gladwin, et. al. :
Application No. 11/973,622 : DECISION ON PETITION
Filed: October 9, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CS002 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 7, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the present petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical

sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, the reference to add the prior-filed application is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO IL 60606-6306

COPY MAILED

JUL 25 2008

OFFICE OF PETITIONS

In re Application of :
ITO, OSAMU :
Application No. 11/973,699 : DECISION ON PETITION
Filed: October 10, 2007 :
Atty Docket No. 075834.01066 :

This is a decision on the petition filed May 5, 2008, requesting that the application be accorded a filing date of October 10, 2007, with pages 19 and 32 of the specification as part of the original disclosure.

On October 10, 2007, applicant filed the above-identified application. On November 20, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of October 10, 2007, and advising applicant that pages 19 and 32 of the specification appeared to have been omitted. Additionally the Notice to File Missing Parts of Nonprovisional Application required an executed oath or declaration and a surcharge for its late filing.

In response, on May 5, 2008, applicant submitted the present petition, pages 19 and 32 of the specification, an executed declaration, a request for an extension of time for response within the fourth month, and an authorization to charge the Deposit Account. Additionally, applicant submitted a copy of applicant's returned, date-stamped postcard receipt acknowledging receipt of, inter alia, 52 pages of specification by the USPTO on October 10, 2007.

Upon review of the record, pages 19 and 32 of the specification, deposited on October 10, 2007, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 10, 2007, included pages 19 and 32 of the specification, which were subsequently misplaced in the USPTO. Therefore, the application, including pages 19 and 32 of the specification, was complete on filing and will be accorded a filing date of October 10, 2007.

Accordingly, the petition is **GRANTED**.

The indication in the Notice to File Missing Parts of Nonprovisional Application that pages 19 and 32 were omitted from the application was sent in error. The Notice to File Missing Parts of Nonprovisional Application is being withdrawn ONLY to the extent that it incorrectly stated that items appeared to have been omitted from the application. Accordingly, no petition fee is necessary. However, the Office will charge the required surcharge of $130.00 for the late submission of the declaration to the Deposit Account.

This application is being referred to the Office of Patent Application Processing to accord the above-identified application a filing date of **October 10, 2007,** using pages 1-18, 20-31, and 33-52 of the specification filed on that date, and pages 19 and 32 of the specification submitted with the petition on May 5, 2008, as part of the original disclosure.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAY 13 2010

OFFICE OF PETITIONS

CHARLES G. CALL
361 WILD COFFEE LANE
MARCO ISLAND, FL 34145

In re Application of
Roberto M. Aimi
Application No. 11/973,724
Filed: October 10, 2007
Attorney Docket No. H-06

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 19, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 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 an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571)272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2837 for appropriate action by the Examiner in the normal course of business on the reply received March 22, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thompson E. Fehr
Goldenwest Corporate Center, Suite 300
5025 Adams Avenue
Ogden UT 84403

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeff R. Kemp	:	
Application No. 11/973725	:	DECISION
Filing or 371(c) Date: 10/09/2007	:	ON PETITION
Attorney Docket Number: PBOKGW	:	

This is a decision on the petition to revive a patent application unintentionally abandoned, under 37 CFR 1.137(b), filed September 9, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (Notice), mailed November 1, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 2, 2008. A Notice of Abandonment was mailed July 9, 2008.

With the present petition, Applicant has filed a response to the Notice. 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 filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Application Processing for processing of the reply, and for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bryan D. Wright
Suite 400
321 E. Main Street
Charlottesville, VA 22902

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of :
Donald H. Bailey :
Application No. 11/973,763 :
Filed: October 10, 2007 :
Attorney Docket No. 036439-0001 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers, mailed November 7, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly the case became abandoned on January 8, 2008. A Notice of Abandonment was mailed on July 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the replacement drawings are accepted as being unintentionally delayed.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received July 29, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

OFFICE MAIL
JUL 29 2008
PATENT & TRADEMARK OFFICE

07/30/08

1Fw DAC/#

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 046439.0001

First named inventor: BAILEY, Donald H.

Application No.: 11/973,763 Art Unit:

Filed: 10/10/07 Examiner:

Title: KIDKLIP SKI TIP CONNECTOR

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Notice to File Missing Papers (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

07/31/2008 CNGUYEN2 00000016 500766 11973763
01 FC:2453 770.00 DA

B. The issue fee and publication fee (if applicable) of $ _____

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	July 29, 2008 Date
Bryan D. Wright Typed or printed name	39,080 Registration Number, if applicable
321 E. Main Street, Suite 400 Address	(434) 951-5700 Telephone Number
Charlottesville, Virginia 22902 Address	

Enclosures:
☑ Fee Payment
☑ Reply
☑ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☑ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

July 29, 2007 Date	Signature Bryan D. Wright Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/973,763	10/10/2007	Donald H. Bailey	036439.0001

CONFIRMATION NO. 1854

Bryan D. Wright
Suite 400
321 E. Main St.
Charlottesville, VA 22902

FORMALITIES LETTER

OC0000000026607191

Date Mailed: 11/07/2007

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 1-4.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to:

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at http://www.uspto.gov/ebc.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

/pwallace sr/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/973,763	10/10/2007	Donald H. Bailey	036439.0001

CONFIRMATION NO. 1854

Bryan D. Wright
Suite 400
321 E. Main St.
Charlottesville, VA 22902

ABANDONMENT/TERMINATION LETTER

OC00000030929063

Date Mailed: 07/14/2008

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on11/07/2007.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or

3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

/nnguyen/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11973763 Total Records Found: 4

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/31/2008	00000035	1	2453	$770.00	07/29/2008	DA 500766
10/12/2007	00000124	1	2011	$155.00	10/10/2007	DA 500766
10/12/2007	00000125	1	2111	$255.00	10/10/2007	DA 500766
10/12/2007	00000126	1	2311	$105.00	10/10/2007	DA 500766

GAU 3617
JUL 29 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/973,763	10/10/2007	Donald H. Bailey	036439.0001

CONFIRMATION NO. 1854

RECEIVED
JUL 16 2008

Bryan D. Wright
Suite 400
321 E. Main St.
Charlottesville, VA 22902

ABANDONMENT/TERMINATION LETTER

OC000000030929063

Date Mailed: 07/14/2008

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on11/07/2007.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);

2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or

3. If the reply was filed via "Express Mail," a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the "Express Mail" mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

A copy of this notice MUST be returned with the reply.

/nnguyen/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/4/10

TO SPE OF : ART UNIT 3676 Suchfield, George

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/973764 Patent No.: 7516785

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

Certificates of Correction Branch

703-756-1571 _____

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: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER 3676 (Acting)
SPE TECHNOLOGY CENTER 3600 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARNEL C. DUVALL
P.O. BOX 355
QUINTON, OK 74561

COPY MAILED

NOV 26 2008

OFFICE OF PETITIONS

In re Application of :
Carnel C. Duvall :
Application No. 11/973,830 : DECISION ON PETITION
Filed: October 10, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. None : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 18, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The petition includes the requisite statement by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3204.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3652 for action on the merits commensurate with this decision.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JERRY TRAINELLO
4947 TAYWATER DELL
SARASOTA FL 34235

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NOV 2 0 2008

OFFICE OF PETITIONS

In re Application of :
TRAINELLO, Jerry :
Application No. 11/973,844 : DECISION ON PETITION
Filed: October 10, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **JERRY TRAINELLO** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 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 **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 Jerry Trainello's, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3781 for action on the merits commensurate with this decision.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AVIGENICS, INC.
111 RIVERBEND ROAD
ATHENS, GA 30605

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DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Robert D. Ivarie et al :
Application No. 11/973,853 : DECISION GRANTING
Filed: October 10, 2007 : PETITION
Attorney Docket No. AVI-000CIP5 :

This is a decision on the petition, filed February 15, 2008, requesting that the above-identified application be accorded a filing date of October 10, 2007, rather than the presently accorded date of October 11, 2007. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on October 10, 2007 pursuant to 37 CFR 1.10. The "date-in" on the copy of the Express Mail label receipt no. EV 934858565 US is illegible. The same Express Mail number is found on the original application papers located in the official file.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner's evidence shows that the package in question was accepted on October 10, 2007, not October 11, 2007. Since the original application papers corroborates a "date-in" of October 10, 2007, the application is entitled to the requested filing date.

This matter is being referred to the Office of Patent Application Processing (OIPE) for correction of the filing date to **October 10, 2007** and issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to Irvin Dingle at (571) 272-3210. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

David Bucei
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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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 05/19/2010

Applicant	: Shifan Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7655157	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/973,867	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/09/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA CA 90404

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Carl Arsin	:	DECISION REFUSING STATUS
Application Number: 11/973880	:	UNDER 37 CFR 1.47(b)
Filing Date: 10/10/2007	:	
Attorney Docket Number: 104972-024700	:	

This is a decision in response to the petition filed on April 30, 2008, which is treated as a petition under 37 CFR 1.47(b).[1]

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on October 10, 2007, without an executed oath or declaration. Accordingly, on November 2, 2007, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application requiring a signed oath or declaration and a surcharge for its late filing. The statutory basic filing fee,

[1] A petition under 37 CFR 1.47(a) is inappropriate in this instance since no inventor has signed the declaration. A petition under 37 CFR 1.47(a) is only appropriate where at least one joint inventor is available to sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

application search fee, application examination fee, and replacement drawings were also required. A two (2) month period for reply was set.

In response, on April 30, 2008, petitioner filed the present petition and petition fee, along with a four (4) month extension of time, the application filing, search, and examination fee, and replacement drawings.

Petitioner asserts that the non-signing inventor has failed to return a signed declaration after having been sent a copy of the application and declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items (1) and (2).

In regards to item (1), petitioner has not provided sufficient proof that the inventor was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[2] Specifically, petitioner have not provided proof that the application papers were sent or given to the non-signing inventor and that the inventor would not sign the declaration.

Petitioner may show proof that a copy of the application was sent or given to the non-signing inventor(s) for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

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[2] MPEP 409.03(d).

In this regard, the showing in the petition consist solely of counsel's statements that the assignee's representatives sent the application to the non-sigining inventor and believe that the non-signing inventor will not sign. Petitioners must provide proof by statements from individuals with first-hand knowledge of the details and/or by providing a copy of the cover letter transmitting the application papers to the non-signing inventor.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioner must show that a copy of the application was sent or given to the inventor. If the inventor(s) refuse(s) in writing, petitioner must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail are unsuccessful, petitioner will have established that, despite diligent efforts, the non-signing inventor could not be reached.

In regards to item (2), an oath or declaration in compliance with 37 CFR 1.63 must be supplied. The declaration must include the name, citizenship, residence, and mailing address of the non-signing inventor. If the inventor refuses to sign the declaration, the declaration must be signed by an officer of the corporation (chief executive officer, president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor. The officer must identify his or her title in the declaration. If the declaration is not signed by an officer of the corporation, then proof of the authority of the person signing on behalf of the corporation must be submitted (See MPEP 409.03(b)).

At the outset, the oath or declaration submitted does not comply with 37 CFR 1.63 in that it does not contain the citizenship of the non-signing inventor.[3] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.

Petitioners are reminded that any oath or declaration filed with a renewed petition must identify both the application number and filing date of the application.[4]

---

[3] MPEP 605.01.

[4] 35 U.S.C. § 115, MPEP 605.01.

A new oath or declaration, containing the residence, mailing address, and citizenship of all of the inventors, signed by all of the signing inventors on behalf of themselves and the non-signing inventor in compliance with 37 CFR 1.63 and 1.67 is required.

Further, petitioners have not shown that the declaration was signed by a person with authority to sign on behalf of the Rule 1.47(b) applicant.

MPEP 409.03(b) states that where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324.

The declaration is signed by Robert D. Miller, Chief Financial Officer of Rule 1.47(b) applicant Pentair Water Pool and Spa, Inc. A Chief Financial Officer, however, is not among the corporate officers listed above as considered to have apparent authority to sign on behalf of the Rule 1.47(b) applicant. As such, petitioners must provide proof that the person who signed the declaration has authority to sign, or provide a new oath or declaration signed by a person with authority to sign the declaration, as listed above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22134

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVENUE , SUITE 400E
SANTA MONICA CA 90404

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Carl Arsin	:	DECISION ACCORDING STATUS
Application Number: 11/973880	:	UNDER 37 CFR 1.47(b)
Filing Date: 10/10/2007	:	
Attorney Docket Number: 104972-024700	:	

This is a decision in response to the request for reconsideration under 37 CFR 1.47(b) filed on August 22, 2008 (certificate of mailing date August 20, 2008).

The petition is **GRANTED**.

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers via Federal Express. Specifically, petitioner has shown that a copy of the application was sent to the non-signing inventor. An executed declaration was not returned, however. Accordingly, petitioner has shown that the non-signing inventor constructively refused to sign the declaration.

In addition, petitioner has shown, via the Confidentiality and Assignment of Inventions Agreement, signed by the non-signing inventor, that Rule 1.47(b) applicant Pentair Water Pool and Spa, Inc. (formerly known as Pentair Pool Products) has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Angela Lageson, Assistant Secretary and Assistant General Counsel on behalf of the Rule 1.47(b) applicant, and has demonstrated that such action is necessary to avoid irreparable damages.

In accepting this petition, the Office is construing Angel Lageson, Assistant Secretary and Assistant General Counsel, to be a person authorized to sign on behalf of assignee Pentair Water Pool and Spa, Inc. Petitioner **must** inform the Office if this is an incorrect interpretation.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Carl Arsin
7 Hopkins Street
Irvine CA 921612

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of
Carl Arsin
Application No. 11/973,880
Filed: October 10, 2007
For: DIVERTER VALVE APPARATUS AND METHOD

Dear Mr. Arsin:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GREENBERG TRAURIG (PHX)
INTELLECTUAL PROPERTY DEPARTMENT
2450 COLORADO AVE, SUITE 400E
SANTA MONICA CA 90404

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Paper No.

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

MAILED

JAN 25 2010

OFFICE OF PETITIONS

In re Application of :
Reichenbach-Klinke et al. :
Application No. 11/973,893 : DECISION ON PETITION
Filing Date: October 10, 2007 : PURSUANT TO
Attorney Docket No.: BASF-207 : 37 C.F.R. § 1.78(A)(3)
(BCP 3) :
Title: METHOD OF USE OF A :
POLYVINYL ALCOHOL-BASED :
COMPOSITION :

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. § 120," filed on November 4, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed international application PCT/EP2007/060446, set forth in an amendment to the specification that was filed concurrently with this petition. This petition is being treated as a petition pursuant to 37 C.F.R. § 1.78(a)(3). A supplement to this petition was received on November 5, 2009.

This petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed applications, unless previously

submitted;

(2) the surcharge set forth in 37 C.F.R. § 1.17(t), and;

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 C.F.R. § 1.78(a)(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. Since the statement contained in this petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(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 Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Petitioner has included the petition fee, an amendment to the specification, and a statement that is being construed as the proper statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority pursuant to 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of this petition to accept the delayed benefit claim to the prior-filed application pursuant to 37 C.F.R. § 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 C.F.R. §§ 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that Applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the Examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed international application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1796 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1]

Anthony Knight
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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
11/973,893	10/10/2007	1796	1212	BASF-207 (BCP 3)	18	2

CONFIRMATION NO. 1780

CORRECTED FILING RECEIPT

24972
FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Date Mailed: 01/25/2010

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)

Roland Reichenbach-Klinke, Traunstein, GERMANY;
Peter Lange, Obing, GERMANY;
Christian Spindler, Burghausen, GERMANY;
Gregor Keilhofer, Tacherting, GERMANY;

Power of Attorney:

Peter Felfe--20297
Norman Hanson--30946
John Bauer--32554
James Crawford--39155
Chai Im--40657
Bruce Koch--41905

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/EP2007/060446 10/05/2006

Foreign Applications

GERMANY 10 2006 047 091.5 10/10/2006

If Required, Foreign Filing License Granted: 11/02/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/973,893**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of use of a polyvinyl alcohol-based composition

Preliminary Class

524

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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BERLINER & ASSOCIATES
555 WEST FIFTH STREET
31ST FLOOR
LOS ANGELES CA 90013

MAILED

JAN 30 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Agadjanyan, et al.
Application No. 11/973,920
Filed: October 11, 2007
Attorney Docket No. 7841-102
For: PROTEINS FOR USE IN DIAGNOSING AND TREATING INFECTION AND DISEASE

This decision is mailed in response to the petition, filed January 2, 2009 (certificate of mailing date December 30, 2008) under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on October 11, 2007. On January 9, 2008, the Office mailed a Notice to File Missing Parts of Nonprovisional Application that required applicants to submit an executed oath/declaration, replacement drawings, and a $65.00 surcharge. On April 3, 2008, applicants filed a petition for a one month extension of time, an executed declaration, the $65.00 surcharge, replacement drawings, and an amendment. On April 18, 2008, the Office mailed a Notice to File Corrected Application Papers, mailed April 18, 2008, which required applicants to file a replacement drawing of Figure 3 that is reasonably free from erasures and free from alterations, overwriting, interlineations, folds, and copy marks within two months of the mail date of the Notice.

This application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers. Applicants did not timely reply to the April 18, 2008 Notice to File Corrected Application Papers. The application became abandoned on June 19, 2008. A Notice of Abandonment was mailed on December 23, 2008.

Petitioners request withdrawal of the holding of abandonment because applicants filed a corrected version of Figure 3 on April 3, 2008, in response to the January 9, 2008 Notice to File Missing Parts of Nonprovisional Application. Thus, petitioners argue a complete reply to the Notice to File Corrected Application Papers had already been filed when the Notice was mailed on April 18, 2008.

Petitioners are informed that the version of Figure 3 filed on April 3, 2008 was not accepted by the Office. The Office mailed a Notice to File Corrected Application Papers on April 18, 2008 because Figure 3 was not reasonably free from erasures and/or free from alterations, overwriting, interlineations, folds, and copy marks. The April 18, 2008 Notice to File Corrected Application Papers set a new requirement and applicants did not satisfy the requirement within the period set for reply.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Petitioners are encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b). The required reply is a "clean" Figure 3.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BERLINER & ASSOCIATES
555 WEST FIFTH STREET
31ST FLOOR
LOS ANGELES CA 90013

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APR 07 2009

OFFICE OF PETITIONS

In re Application of
Agadjanyan, et al.
Application No. 11/973,920
Filed: October 11, 2007
Attorney Docket No. 7841-102
For: PROTEINS FOR USE IN DIAGNOSING AND TREATING INFECTION AND DISEASE

ON PETITION

This decision is mailed in response to the petition, filed March 2, 2009, under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application was filed on October 11, 2007. On January 9, 2008, the Office mailed a Notice to File Missing Parts of Nonprovisional Application that required applicants to submit an executed oath/declaration, replacement drawings, and a $65.00 surcharge. On April 3, 2008, applicants filed a petition for a one month extension of time, an executed declaration, the $65.00 surcharge, replacement drawings, and an amendment. On April 18, 2008, the Office mailed a Notice to File Corrected Application Papers, mailed April 18, 2008, which required applicants to file a replacement drawing of Figure 3 that is reasonably free from erasures and free from alterations, overwriting, interlineations, folds, and copy marks within two months of the mail date of the Notice.

This application was held abandoned for failure to timely reply to the Notice to File Corrected Application Papers. Applicants did not timely reply to the April 18, 2008 Notice to File Corrected Application Papers. The application became abandoned on June 19, 2008. A Notice of Abandonment was mailed on December 23, 2008.

Petitioners have submitted a proper reply to the April 18, 2008 Notice in the form of replacement drawings, an acceptable statement of the unintentional nature of the delay in responding to the April 18, 2008 Notice, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Law Offices of James E. Walton, PLLC
1169 N. Burleson Boulevard
Suite 107-328
Burleson, TX 76028

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APR 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Diana L. York	:	
Application No. 11/973,949	:	DECISION ON
Filed: October 11, 2007	:	PETITION TO WITHDRAW
Attorney Docket No. 1234JW-61058	:	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 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James E. Walton on behalf of attorney/agents associated with customer number 38441. All attorneys/agents associated with customer number 38441.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed. All future correspondence will be mailed to the address of the inventor.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Diana L. York
4630 Shiloh Road
Midlothian, TX 76065

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/973,949	10/11/2007	Diana L. York	1234JW-61058

CONFIRMATION NO. 3998

POWER OF ATTORNEY NOTICE

38441
LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

Date Mailed: 04/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2008.

- 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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NAVAL SURFACE WARFARE CENTER, PANAMA CITY
OFFICE OF COUNSEL, CODE XPO1L
110 VERNON AVENUE
PANAMA CITY FL 32407-7001

In re Application of	:	
SOVEL, JAMES E.	:	
Application No.: 11/973984	:	DECISION ON
Filing or 371(c) Date: September 25, 2007	:	PETITION
Attorney Docket Number: **98,658**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed July 10, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed February 24, 2009.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756 - 1499.

/Kendrick Spruill/
Application Assistance Unit
Office of Data Management

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OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
SUITE 121
DAHLGREN VA 22448-5110

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Nicholas V. Nechitailo et al. :
Application No. 11/973,995 : DECISION GRANTING PETITION
Filed: September 27, 2007 :
Attorney Docket No.: Navy Case 98289 :

This is a decision on the petition filed February 27, 2008 under 37 CFR 1.182.

The instant application was filed September 27, 2007 and a filing date was accorded. However, a Notice to File Missing Parts was mailed October 31, 2007 noted that, *inter alia*, Figure 12 described in the specification appeared to have been omitted. A response filed December 3, 2007 was not a complete response to the Notice mailed October 31, 2007 and thus on December 17, 2007, a Notice of Incomplete Reply was mailed.

With a two month extension of time, petitioner asserts that Figure 12 was among the papers filed on September 27, 2007, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included 5 sheets of drawings and bears a United States Patent and Trademark Office date-stamp of September 27, 2007. However, only four (4) sheets of drawing figures are of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figure 12 was on sheet 5 of 5. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

Given the basis for granting the petition, no petition fee is due. Petitioner's deposit account no. 50-0967 will be credited in the amount of $400.00.

This matter will be forwarded to the Office of Patent Application Processing for further processing, using the application papers received in the Office on September 27, 2007 and Figure 12 submitted on petition February 27, 2008.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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FEB 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Thompson, et al. :
Application No. 11/974,020 : ON PETITION
Filed: October 10, 2007 :
Attorney Docket No. 10020/26503 :
For: MATERIALS AND STRUCTURES
FOR ENHANCING THE PERFORMANCE
OF ORGANIC LIGHT EMITTING DEVICES

This is a decision on the petition, filed December 10, 2007 (certificate of mailing date December 6, 2007), requesting, in effect, partial withdrawal of the Notice to File Corrected Application Papers (Notice), mailed November 13, 2007, insofar as the Notice alleges that page 16 of the specification was omitted when the above-identified application was filed.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on October 10, 2007. On November 13, 2007, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that page 16 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 16 be accorded a filing date of October 10, 2007 on the basis that the entire specification, including allegedly missing page 16, was received in the Patent and Trademark Office (PTO) on October 10, 2007.

In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 10, 2007 as the date of receipt. The postcard lists that the filing included, *inter alia*, "specifications 41". A review of the application file reveals that pages 1-15 and 17-47 are present. Page 16 is missing.

The return postcard constitutes *prima facie* evidence that 47 pages of specification, including missing page 16, were filed on October 10, 2007. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $400.00 fee submitted with the instant petition will be credited to petitioners' deposit account, no. 11-0600.

The application is being returned to Office of Patent Examination Processing for further pre-examination processing, with a filing date of **October 10, 2007,** using the copy of page 16 supplied with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

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DEC 20 2007

OFFICE OF PETITIONS

In re Application of :
Kirkwood Samuel, et al. :
Application No. 11/974,024 : ON PETITION
Filing Date: October 11, 2007 :
Attorney Docket No.: 1490-100 :

This decision is in response to "PETITION FOR DATE OF DEPOSIT," filed December 5, 2007, to accord the above-identified application a filing date of October 11, 2007 with Page 2 of the specification as part of the disclosure of application.

The petition is hereby **DISMISSED**.

The application was filed October 11, 2007. The Notice of Omitted Items in a Nonprovisional Application (Notice) mailed November 13, 2007 by the Office of Initial Patent Examination (OIPE) indicated that the application had been accorded a filing date but that Page 2 of the specification appeared to be omitted from the application as filed.

The Notice gave applicants the opportunity to: one, petition for a date of deposit by establishing that the omitted item was deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers; two, petition for later filing date by submitting the omitted item and accepting the date that the item was filed in the USPTO as the filing date of the application; three, accept as the application filing date the application as deposited without the omitted item as part of the application; or, four, accept the application as deposited, but to add the subject matter in the omitted item (e.g., a missing page or figure) by relying on an incorporation by reference under 37 CFR 1.57.

Petitioners herein argue that the application as deposited included page 2 of the specification and have provided as proof of receipt the declaration of Mary Volpe, who declares, *inter alia*, that the application as submitted included page 2 of the specification.

The arguments and evidence submitted by petitioners have been considered, but are not persuasive. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Page 2 of the specification is not included amongst the papers received October 11, 2007. Instead, it appears that two copies of page 1 of the specification were received.

The declaration of Ms. Volpe relies upon the declarant's recall of routine events and is not more persuasive than the record of what was filed as shown in the official file. Accordingly, the fact that petitioners believe page 2 of the specification was deposited with the application papers is not more persuasive than the actual papers shown to have been received by the official file.

Further, the Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

The copy of the postcard submitted herewith does not bear a USPTO stamp of receipt.

Accordingly, petitioners have failed to establish that the application is entitled to a filing date of October 11, 2007 with page 2 of the specification as part of the original disclosure.

Alternatively, petitioners seek to amend the application to delete reference to page 2 of the specification and maintain the original application filing date of October 11, 2007.

Applicants may amend the application to omit a missing page of specification without the need for a petition by submitting a substitute specification including claims that amends the specification to renumber the pages consecutively and cancels any incomplete sentences, and a statement that the substitute

specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125.

If petitioners desire to amend the application to delete reference to page 2 of the specification, a preliminary amendment to the specification should be submitted prior to the issuance of the first Office action on the merits to avoid delays in prosecution.

The petition fee submitted herewith will not be refunded as the petition was not necessitated due to Office error.

This application is being directed to the Office of Initial Patent Examination for further processing with a filing date of October 11, 2007, without entry of Page 2 into the record.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Lott & Friedland, P.A.
One East Broward Blvd.
Suite 1609
Fort Lauderdale, FL 33301

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MAY 19 2008

In re Application of	:	
Derek W. Cornelius, et al.	:	
Application No. 11/974,032	:	DECISION ON PETITION
Filed: October 11, 2007	:	TO WITHDRAW
Attorney Docket No. 03176-1-010100	:	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 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael J. Keller on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: Derek W. Cornelius
251 Garnet Lane
Cape Girardeau, MO 63701

cc: Gary L. Haynes, President & CEO
Creative Compounds, LLC
1704 Main Street
Scott City, MO 63780

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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
11/974,032	10/11/2007	Derek W. Cornelius	03176-1-010100

CONFIRMATION NO. 5400

35996
LOTT & FRIEDLAND, P.A.
ONE EAST BROWARD BLVD.
SUITE 1609
FORT LAUDERDALE, FL 33301

POWER OF ATTORNEY NOTICE

OC000000030010013

Date Mailed: 05/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2008.

- 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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OFFICE OF PETITIONS

LAW OFFICES OF MATTHEW ROSENBERG, LLC
36 FOUR SEASONS CTR. #116
SAINT LOUIS, MO 63017

In re Application of
Cornelius et al
Application No. 11/974,032
Filed: October 11, 2007
For: METABOLIC ENHANCING PROPERTIES OF THEAFLAVINS AND THEARUBIGINS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed October 16, 2008, is accepted as having been unintentionally delayed.

A Notice of Acceptance of Power of Attorney on December 1, 2009 is enclosed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received September 8, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Notice of Acceptance of Power of Attorney on December 1, 2009

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/974,032	10/11/2007	Derek W. Cornelius	

CONFIRMATION NO. 5400

88743
LAW OFFICES OF MATTHEW ROSENBERG, LLC
36 FOUR SEASONS CTR. #116
SAINT LOUIS, MO 63017

POA ACCEPTANCE LETTER

OC000000039028617

Date Mailed: 12/01/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/08/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kocreasy/

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.
11/974,035	10/10/2007	Chang-Soo Lee	AB-2539 US	5314

7590 04/13/2009

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
04/13/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2009 NFARMER
10/15/2007 SFELEKE1 00000073 502257 11974035
02 FC:1111 510.00 CR

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OFFICE OF PETITIONS

GREER, BURNS & CRAIN
300 S. WACKER DR.
25TH FLOOR
CHICAGO IL 60606

In re Application of
Eiji Kumagai
Application No. 11/974,044
Filed: October 10, 2007
Attorney Docket No. 1503.79144

DECISION GRANTING PETITION

This is a decision on the petition, filed July 14, 2008, requesting that the above-identified application be accorded a filing date of October 10, 2007, rather than the presently accorded date of October 11, 2007. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on October 10, 2007. In support, applicants have submitted a copy of their Express Mail Corporate Account Mailing Statement which includes Express Mail label No. EV504169164US and a date of October 10, 2007 as the date the postage was charged. The same Express Mail receipt number appearing on the corporate account statement was placed on the original patent application transmittal letter of record in the official file. Additionally, petitioner submitted a copy of the USPTO Track and Confirm to show an acceptance date of October 10, 2007 in Chicago IL.

The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on October 10, 2007. Accordingly, the instant application is entitled to a filing date of October 10, 2007, and has been so accorded.

The petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to **October 10, 2007** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

Karen Creasy
Petitions Examiner
Office of Petitions

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DRINKER BIDDLE & REATH LLP, PATENT DOCKETING
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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MAR 25 2010

OFFICE OF PETITIONS

In re Application of :
Moshe Oz :
Application No. 11/974,046 : ON PETITION
Filed: October 11, 2007 :
Attorney Docket No. 43098-0012-00-US :

This is a decision on the petitions filed December 14, 2009, entitled " Petition to Director Under 37 C.F.R. 1.181" to withdraw the holding of abandonment in the above-identified application or in the alternative a Petition For Revival Of An Application For Patent Abandoned Unintentionally under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 2, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 3, 2009. A Notice of Abandonment was mailed on October 28, 2009.

Petitioner argues that the abandonment should be withdrawn since the examiner, in an Interview Summary dated April 14, 2009, agreed to withdraw his previous action dated April 2, 2009 (Final Rejection) and issue a new action. The Interview Summary was subsequently mailed on April 30, 2009.

It should be noted that regardless of what the examiner stated, the Interview Summary mailed April 30, 2009, did not operate to avoid the above application from becoming abandoned. It was petitioner's responsibility to file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed on April 2, 2009. Petitioner should not have allowed the maximum extendable period for reply to expire while awaiting further action from the Office.

Pursuant to 35 U.S.C. 133, "[u]pon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the application, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfactory of the Director that such delay was unavoidable.

The evidence of record does not demonstrate that such delay in filing a response was unavoidable within the meaning of the rule. Consequently, the application was properly held abandoned.

As to the Petition under 37 CFR 1.137(b):

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed April 2, 2009, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175.00 extension of time fee submitted with the petition on December 14, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received December 14, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK, NJ 07701-8489

Mail Date: 04/21/2010

Applicant	: Alain Bilodeau	: DECISION ON REQUEST FOR
Patent Number	: 7631746	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/974,048	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **230** 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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INTERNATIONAL TRUCK INTELLECTUAL PROPERTY COMPANY,
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

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OFFICE OF PETITIONS

In re Application of	:	
Eifert et al.	:	
Application Number: 11/974083	:	DECISION DISMISSING PETITION
Filing Date: 10/12/2007	:	
Attorney Docket Number: D6189	:	
Non Prov.	:	

This is a decision in reference to the petition under 37 CFR 1.10(c) filed on February 19, 2008, requesting that the above-identified application be accorded a filing date of October 10, 2007, rather than the currently-accorded filing date of October 12, 2007.

Petitioners aver that the application was deposited as with the United States Postal Service (USPS) using "Express Mail Post Office to Addressee" Service on October 10, 2007. Petitioners further state that "[d]ue to a clerical error, a true copy of the Express Mail mailing label was not retained, and apparently cannot be recovered."

Paragraph (a) of 37 CFR 1.10 states that:

> (1) Any correspondence received by the Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the USPTO on the date of deposit with the USPS.
>
> (2) The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition lacks the showing required by item (3) above. The showing of record: counsel's bare assertion that the application was deposited with the USPS on October 10, 2007, is insufficient to accord the application a filing date of other than October 12, 2007.

Petitioners may wish to consider requesting evidence from the USPS, such as a letter from the USPS stating that the Express Mail shipment bearing Express Mail Number EV765082541US (the Express Mail number contained on the Utility Patent Application Transmittal) was in fact deposited with the USPS in Express Mail Post Office to Addressee Service on October 10, 2007.

Accordingly, the petition is dismissed. However, such dismissal is without prejudice to reconsideration pending submission of a statement from the USPS or other proper evidence showing that the application was accepted by the USPS on October 10, 2007.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randloph Building
401 Dulany Street
Alexandria VA 22314

Telephone inquiries 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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Steve Galipeau
Rory Briski
Suite B
13200 SE 30th St.
Bellevue WA 98005

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OFFICE OF PETITIONS

In re Application of :
Steven R. Galipeau, et. al. :
Application No. 11/974,087 : DECISION ON PETITION
Filed: October 11, 2007 :
Attorney Docket No. N/A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely file replacement drawings on or before March 28, 2008, as required by the Notice to File Corrected Application Papers, mailed January 28, 2008. Accordingly, the date of abandonment of this application is March 29, 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). This petition lacks item (3) above.

The petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

Since the instant petition was only signed by one of the two joint inventors, the statement of unintentional delay cannot be accepted. Therefore, a renewed petition with the signatures of all inventors or a statement under 37 CFR 3.73(b), signed by the assignee, 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 Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to Denise Williams at (571) 272-8930.

Brian W. Brown
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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Steve Galipeau
Rory Briski
Suite B
13200 SE 30th St.
Bellevue WA 98005

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DEC 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Steve Galipeau, et. al.	:	
Application No. 11/974,087	:	DECISION ON PETITION
Filed: October 11, 2007	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2008, to revive the above-identified application.

The renewed 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 a replacement claim and replacement abstract; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Patent Application Processing for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/974,108	10/11/2007	Theodore Robert Whitney		4391

7590 05/28/2010

Theodore R. Whitney
5500 Fenwood Avenue
Woodland Hills, CA 91367

EXAMINER	
NGUYEN, HUNG	

ART UNIT	PAPER NUMBER
2882	

MAIL DATE	DELIVERY MODE
05/28/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Paper No. 05212010

THEODORE R. WHITNEY
5500 FENWOOD AVENUE
WOODLAND HILLS, CA 91367

In re Application of:
Theodore Robert Whitney
Application No. 11/974,108
Filed: October 11, 2007
For: Roll Printer with Decomposed Raster Scan and X-Y Distortion Correction

Decision on Request

This is a response to the communication filed November 2, 2009, which has been treated as a request to withdraw the holding of abandonment of the above-identified application and to accept the communication as a timely response to the restriction requirement mailed March 24, 2009. No fee is required.

The request is **GRANTED**.

This application became abandoned for failure to respond to the Office action of March 24, 2009. A Notice of Abandonment has not been mailed.

Requester states that the Office action was not received and attests that it is unknown whether the error in transmission was local in the delivery or in the national mail.

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 address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required for a practitioner to establish non-receipt of an Office action comprises (i) a statement that the Office action was not received by the practitioner and that a search of the file jacket and docket records indicates that the Office action was not received, and (ii) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

Considering requester is prosecuting his patent application *pro se*, the above-noted requirements are hereby waived and it is presumed that requester's own application file has been searched and revealed that the Office action of March 24, 2009, was not found. Accordingly, the holding of abandonment is hereby withdrawn.

The above-identified communication identifies that the requester received a copy of the restriction requirement by facsimile on October 27, 2009, and includes an election in response to said restriction requirement. Accordingly, the restriction requirement will not be remailed, and the election is hereby accepted as being timely.

Telephone inquires should be directed to Ed Glick, Supervisory Patent Examiner, of art unit 2882, at (571) 272-2490.

The application file is being forwarded to the examiner for appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JUN 1 1 2010

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DALLAX, TX 75380

In re Application of
Jerry Baack et al.
Application No. 11/974,118
Filed: October 11, 2007
For: MICRO-PROCESSOR PROGRAMMABLE AND SELECTABLE VENDING OPTIONS AND CONTROL

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 May 7, 2010 requesting a review of the requirement for restriction made final in the February 9, 2010 Office action.

The petition is **GRANTED**.

The record indicates that the examiner made a requirement for restriction between invention I (claims 32-38) drawn to a vending machine with a custom programmable product dispensing location and invention II (claims 19-31) drawn to a method for entering vend information into a vending machine. Applicants elected with traverse in the response received October 12, 2009. The examiner, upon reconsideration, adhered to the restriction requirement and made the requirement final in the Office action mailed February 9, 2010.

With regards to invention II, Petitioner asserts that the characterization of a method for entering vend information into a vending machine may be correct for claims 19-23; however, it is a mischaracterization of the method of claims 24-31. Claim 24 recites a method that the electronic control unit of claim 32 is adapted to perform.

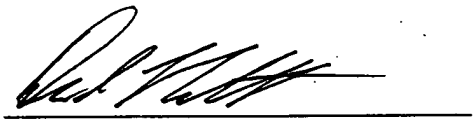
MPEP 803 provides, in part (emphasis added)

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)<).

It should be noted that claim 32 does not require the electronic control unit to perform the method of claim 24, only that it be adapted to do so. Although the vending machine of claim 32 may be used to practice a process that is materially different than the method of claim 24, pursuant to MPEP 803, the claims of an application may be restricted only if they are able to support separate patents and they are either independent or distinct. The invention of claim 24 and the invention of claim 32 can not support separate patents since the apparatus of claim 32 is deemed to not be patentably distinct from the method of claim 24.

Accordingly, the restriction of claims 24-31 from claims 32-38 is hereby withdrawn. Filed concurrently with the petition is an amendment cancelling claims 1-31 and introducing new claims 39-51. The application will be forwarded to the Head Supervisory Legal Instruments Examiner for entry of the May 7, 2010 amendment and then to the examiner for consideration of the amendment.

Any questions concerning this decision should be referred to Quality Assurance Specialist Teri Luu at (571) 272-7045.



David L. Talbott, Director
Technology Center 3600
(571) 272-5150

DT/tl: 06/08/10

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NEXSEN PRUET, LLC
P.O. BOX 10648
GREENVILLE SC 29603

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of :
SHALABY, Shalaby W. et al. :
Application No. 11/974,140 : DECISION ON PETITION
Filed: October 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **SHA-60-CIP** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement attesting that Shalaby W. Shalaby is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1615 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of

Samy Renato ASSAD, et *al.*
Application No. 11/974,147
Filed: October 10, 2007
Attorney Docket No. **3194-8585US**

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 29, 2009.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted forwarding correspondence address information for the application. The request to change the correspondence address of record is not acceptable as the requested address is not that of: (1) the **first** named signing inventor; or (2) an intervening assignee of the entire interest under 37 CFR 3.71.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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www.uspto.gov

Houston IP Department
JACKSON WALKER L.L.P.
1401 McKinney St.
Suite 1900
Houston, TX 77010

Mail Date: 04/21/2010

Applicant	: Louis J. Cognata	: DECISION ON REQUEST FOR
Patent Number	: 7607479	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/974,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **173** 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

Richard M. Rosati, Esq.
Kenyon & Kenyon LLP
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Kazuya Nishimura	: DECISION ON REQUEST FOR
Patent Number	: 7630142	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/974,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/10/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **97** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN REINHARDT
342 S HIGHLAND AVENUE, APT. 16B
PITTSBURGH, PA 15206

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Jan **REINHARDT** :
Application No. 11/974,159 : DECISION ON PETITION
Filed: October 12, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 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, mailed November 23, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 and examination fee of $105; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 09 2010

OFFICE OF PETITIONS

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

In re Application of
Thomas Uuzzie, et al.
Application No. 11/974,171
Filed: October 11, 2007
Attorney Docket No.: MB 659

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 19, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 1, 2010, as required by the Notice of Allowance and Fee(s) Due mailed November 30, 2009. The issue and publication fees were paid on March 5, 2010. A Notice of Abandonment was subsequently mailed on March 19, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Allan Chan
Suite 700
225 Broadway
New York, NY 10007

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JUL 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter Sudarsky, et al.	:	
Application No. 11/974,181	:	DECISION ON PETITION
Filed: October 10, 2007	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Allan Chan 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 Peter Sudarsky at the address indicated below.

There is an outstanding Office action mailed March 17, 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: **Peter Sudarsky**
111 West 94th Street, Suite 2F
New York, NY 10025

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
11/974,181	10/10/2007	Peter Sudarsky	

CONFIRMATION NO. 3409

Allan Chan
Suite 700
225 Broadway
New York, NY 10007

POWER OF ATTORNEY NOTICE

OC000000037162848

Date Mailed: 07/31/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/16/2009.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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FEB 05 2010

Applicant: Lasters, et al.
Appl. No.: 11/974,186
Filing Date: October 11, 2007
Title: AMINO ACID SEQUENCES THAT BIND TO SERUM PROTEINS IN A MANNER THAT IS ESSENTIALLY INDEPENDENT OF THE PH, COMPUNDS COMPRISING THE SAME, AND USES THEREOF
Pub. No.: US 2009/0074770 A1
Pub. Date: March 19, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) or (a), received on May 19, 2009, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 30 2010

OFFICE OF PETITIONS

IRVING KESCHNER
21535 HAWTHORNE BOULEVARD
SUITE 385
TORRANCE CA 90503

In re Application of :
Vince MONTEFUSCO :
Application No. 11/974,204 : DECISION ON PETITION
Filed: October 12, 2007 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 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 September 3, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 2, 2009. Accordingly, the date of abandonment of this application is September 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Olisa Anwah at (571) 272-7099 or in his absence, the undersigned at (571) 272-7099.

This application is being referred the Office of Data Management for processing into a patent.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Brian M. Meagher
1 Ryan's Lane
Cape Neddick ME 03902

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DEC 17 2008

In re Application of :
Méagher :
Application No. 11/974,214 : DECISION ON PETITION
Filed: October 12, 2007 :
Attorney Docket No. N/A :
For: SKIMMER COVER AND HELIACAL RAMP APPARATUS

This is a decision on the petition under 37 CFR 1.137(a), filed December 1, 2008 (certificate of mailing date November 25, 2008), to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply to a non-final Office action, mailed April 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and the Office has no record of receiving a reply. Accordingly, the application became abandoned on July 30, 2008. A Notice of Abandonment was mailed on November 7, 2008.

The merits of the petition will not be addressed at this time because it is unclear which ***type*** of Rule 137 petition to revive that petitioner wishes to file. While petitioner utilized the Rule 137(a) form, petitioner paid the (higher amount) Rule 137(b) petition fee and states in the petition, "This situation was unintentional...." Petitioner is informed that if the Office undertakes a Rule 137(a) analysis and petitioner is unsuccessful, then petitioner will have to pay an additional $270.00 if he wishes to receive consideration under Rule 137(b). Therefore, in the interests of economy, petitioner should clarify which type of petition he wishes to file.

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) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Brian M. Meagher
1 Ryan's Lane
Cape Neddick ME 03902

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Meagher :
Application No. 11/974,214 : DECISION ON PETITION
Filed: October 12, 2007 :
Attorney Docket No. N/A :
For: SKIMMER COVER AND HELIACAL RAMP APPARATUS

This is a decision on the petition under 37 CFR 1.137(b), filed December 31, 2008, to revive the above-identified application.

The application became abandoned for failure to timely reply to a non-final Office action, mailed April 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and the Office has no record of receiving a reply. Accordingly, the application became abandoned on July 30, 2008. A Notice of Abandonment was mailed on November 7, 2008.

Applicant has submitted a reply to the April 29, 2008 non-final Office action in the form of an informal amendment, an acceptable statement of the unintentional nature of the delay in replying to the April 29, 2008 non-final Office action, and the $810.00 petition fee. Therefore, the petition is **granted.**

After the mailing of this decision, the application will be returned to Technology Center 1797 for consideration of the informal amendment filed on December 1, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Catherine Anne Whealy
P.O. Box 220
Tolar TX 76476

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FEB 21 2008

In re Application of :
Miedema-Jorna :
Application No. 11/974,217 : ON PETITION
Deposited: October 11, 2007 :
Attorney Docket No. N/A :
For: GUINEA IMPATIENS PLANT NAMED 'TAMAR DARK RED'

This is a decision on the petition captioned, "PETITION FOR ENTITLEMENT TO A FILING DATE & REFUND OF THE PETITION FEE (37 C.F.R. 1.17(f)," filed January 9, 2008, requesting that the above-identified application be accorded a filing date of October 11, 2007 and a refund of the $400.00 petition fee. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **dismissed** and the merits of the petition will not be addressed because the petition is not signed. No additional petition fee will be due when petitioner files a reconsideration petition.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

In any reconsideration petition, applicant is encouraged to file another copy of the petition properly signed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 22 2010

OFFICE OF PETITIONS

DENTSPLY INTERNATIONAL INC
570 WEST COLLEGE AVENUE
YORK, PA 17404

In re Application of :
David R. Schiff, et al. :
Application No. 11/974,277 : ON PETITION
Filed: October 12, 2007 :
Attorney Docket No. PHAR-Z007-CON :

This is a decision in response to the petition, filed January 28, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Leana Levin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed June 27, 2008, which set a three month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on September 28, 2008. A Notice of Abandonment was subsequently mailed on January 26, 2009. On January 28, 2010, the present petition was filed, along with a 3-month petition of time.

It is initially pointed out that extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $1,110 extension fees included with this petition is being refunded to counsel's deposit account.

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).

It is noted that the petition did not include a response in the present application to continue prosecution; however, the present petition indicates the reply to the Office action is in the form of "Continuation Application (PHAR-Z007-CON3)".

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuation (Application No. 12/657,690 filed January 26, 2010), the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

Accordingly, the petition, as construed, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $1.620; and (3) an adequate statement of unintentional delay[1].

This application is being revived solely for the purpose of continuity with the Application No. 12/657,690, filed January 26, 2010. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 12/657,690.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, 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.

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APR 01 2010

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Yoshifumi Takada :
Application No. 11/974,335 : ON PETITION
Filed: October 12, 2007 :
Attorney Docket No. 16869S-137210US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 13, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 14, 2009. A Notice of Abandonment was subsequently mailed on November 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2841 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA, SUITE 1600
IRVINE CA 92614-2558

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FEB 1 1 2008

OFFICE OF PETITIONS

In re Application of :
CUMMING, et al. :
Application No. 11/974,364 : DECISION ON PETITION
Filed: October 11, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. **13533-4085** : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 24, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor J. Stuart Cumming, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 3677 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :

GENSCH, Carolyn T. :
Application No. 11/974,372 : DECISION ON PETITION TO
Filed: October 11, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. 012175-0006-999 :

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 5, 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 Christine Chua 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 Carolyn T. Gensch 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: CAROLYN T. GENSCH
27 BISSELL ROAD
LEBANNON, NJ 08833

cc: ELAINNE CORPORATION
BOX 302
OLDWICK, NJ 08858

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DESTINATOR TECHNOLOGIES, INC.
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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Alexei Gavriline, et al. : DECISION GRANTING STATUS
Application No. 11/974,391 : UNDER 37 CFR 1.47(a)
Filed: October 11, 2007 :
Attorney Docket No. PA4414US :

This is in response to the petition under 37 CFR 1.47(a), filed May 27, 2008.

The petition is **GRANTED.**

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.

Petitioner has shown that the non-signing inventor Mamdouh Yanni has refused to join in the filing of the above-identified application.

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 declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DR. MAMDOUH YANNI
31 WESTMORELAND COURT
MARKHAM, ONTARIO
CANADA L3R 8L9

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Alexei Gavriline, et al. :
Application No. 11/974,391 :
Filed: October 11, 2007 : LETTER
For: COLLABORATIVE GPS/INS SYSTEM :
AND METHOD :

Dear Dr. Yanni:

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 an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3204. 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 (571)272 -3150 or 1-800-972-6382 (outside the Washington D.C. area).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DESTINATOR TECHNOLOGIES, INC.
95 MURAL STREET, 6TH FLOOR
RICHMOND HILLS ON L4B3G-2 CA CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 29 2008

In re Application of :
Calderbank, et al. : DECISION ON PETITION
Application No. 11/974,395 :
Filed: October 12, 2007 :
Docket No.: Calderbank 15-1-36-1con2 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 28, 2008.

The Notice of Abandonment mailed July 14, 2008 indicates that the application is abandoned for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed November 7, 2007.

Petitioners assert that a response to the Notice was timely submitted on November 19, 2007 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated November 19, 2007 acknowledging receipt of the response to the Notice, including a substitute specification.

The reply to the Notice filed November 19, 2007 has not been located in the official application file.

However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE CA 94086

JUN 19 2008

In re Application of: Salmon, D'Miles
Serial No.: 11/974,410
Filed: October 12, 2007
Title: SYSTEMS AND DEVICES FOR CONTROLLED PUTTING

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 June 6, 2008 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The

effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

As a courtesy to the applicant, the Examiner notices the following additional critical deficiencies: 1) at the time of the filing, the application was not in condition of examination – witness the preliminary amendment; 2) both the pre-examination search and the petition content miss critical parts and statements that are conditions for granting the petition (e.g., specific mapping of the claim limitations unto the prior art, patentability arguments, utility statement; specific support of the claimed limitations under 35 USC 112, 1st paragraph, identification of the means- or step-plus-function under 35 USC 6th paragraph, identification of references disqualified as prior art under 35 USC 103(c), etc.,) as per the requirements of the notice cited 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 Ehud Gartenberg, TC 3700 Special Program Examiner, at (571) 272-4828. In his absence, inquiries can be addressed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

Ehud Gartenberg
Special Program Examiner
Technology Center 3700

(2) Activities will be initiated before dusk;

(3) Construction noises must be kept constant (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present;

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, start-up of activities will include a gradual increase in noise levels;

(5) A NMFS-approved marine mammal observer will visually monitor the pinnipeds on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of Boeing's activities (see Monitoring); and

(6) To the extent possible, the *Delta Mariner* and accompanying vessels will enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks. The vessel will reduce speed 1.5 to 2 knots (2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel will enter the harbor stern first, approaching the wharf and mooring dolphins at less than 0.75 knot (1.4 km/hr).

Monitoring

As part of its 2002 application, Boeing provided a proposed monitoring plan for assessing impacts to harbor seals from the activities at south VAFB harbor and for determining when mitigation measures should be employed. NMFS proposes the same plan for this IHA.

A NMFS-approved and VAFB-designated biologically trained observer will monitor the area for pinnipeds during all harbor activities. During nighttime activities, the harbor area will be illuminated, and the monitor will use a night vision scope. Monitoring activities will consist of:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities;

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough for pinnipeds to haul out (2 ft, 0.61 m, or less); and

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

Monitoring results from previous years of these activities have been reviewed and incorporated into the analysis of potential effects in this document, as well as the take estimates.

Reporting

Boeing will notify NMFS 2 weeks prior to initiation of each activity. After each activity is completed, Boeing will provide a report to NMFS within 90 days. This report will provide dates and locations of specific activities, details of seal behavioral observations, and estimates of the amount and nature of all takes of seals by harassment or in other ways. In addition, the report will include information on the weather, the tidal state, the horizontal visibility, and the composition (species, gender, and age class) and locations of haul-out group(s). In the unanticipated event that any marine mammal is injured or killed as a result of these activities, Boeing or its designee shall report the incident to NMFS immediately.

Endangered Species Act

This action will not affect species listed under the Endangered Species Act (ESA) that are under the jurisdiction of NMFS. VAFB formally consulted with U.S. Fish and Wildlife Service (FWS) in 1998 on the possible take of southern sea otters during Boeing's harbor activities at south VAFB. A Biological Opinion was issued in August 2001, which concluded that the proposed activities were not likely to jeopardize the continued existence of the southern sea otter. The activities covered by this IHA are analyzed in that Biological Opinion, and this IHA does not modify the action in a manner that was not previously analyzed.

National Environmental Policy Act

In 2001, the USAF prepared an Environmental Assessment (EA) for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, NMFS prepared an EA supplementing the information contained in the USAF EA and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for Boeing's harbor activities in accordance with section 6.01 of the National Oceanic and Atmospheric Administration Administrative Order (NAO) 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). The proposed activity is within the scope of NMFS'2005 EA and FONSI.

Conclusions

NMFS has issued an IHA to Boeing for harbor activities related to the Delta IV/EELV to take place at south VAFB over a 1-year period, contingent upon adherence to the previously mentioned mitigation, monitoring, and reporting requirements. NMFS has determined that the impact of harbor activities related to the Delta IV/EELV at VAFB (transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat mitigation) will result in the Level B Harassment of small numbers of Pacific harbor seals, California sea lions, and northern elephant seals. The effects of Boeing's harbor activities are expected to be in the form of short-term and localized behavioral changes and no take by injury or death is anticipated or authorized. NMFS has further determined that these takes will have a negligible impact on the affected marine mammal species and stocks and will not have an unmitigable adverse impact on the availability of such marine mammal species and stocks for subsistence uses.

Authorization

NMFS has issued an IHA to take marine mammals, by Level B harassment, incidental to conducting harbor activities at VAFB to Boeing for a 1-year period, provided the mitigation, monitoring, and reporting requirements are undertaken.

Dated: June 19, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–10044 Filed 6–23–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2006–0014]

Changes to Practice for Petitions in Patent Applications To Make Special and for Accelerated Examination

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) has established procedures under which the examination of a patent application may be accelerated. Under one of these procedures, the USPTO will advance an application out of turn for examination if the applicant files a grantable petition to make special under the accelerated examination program. The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the recently announced Patent Prosecution Highway (PPH) pilot program between the USPTO and the Japan Patent Office.

DATES: *Effective Date:* The change in practice in this notice applies to

petitions to make special filed on or after August 25, 2006.

FOR FURTHER INFORMATION CONTACT: Pinchus Laufer, Detailee, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272–7726, or by facsimile at (571) 273–7726. Comments concerning petition to make special practice may be sent by electronic mail message over the Internet addressed to *MPEPFeedback@uspto.gov*, or submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313–1450.

Any inquiries concerning electronic filing of the application should be directed to the Electronic Business Center (EBC) at (866) 217–9197. Any inquiries concerning a specific petition to make special should be directed to the appropriate Technology Center Special Program Examiner.

SUPPLEMENTARY INFORMATION: New patent applications are normally taken up for examination in the order of their United States filing date. The USPTO has a procedure for requesting accelerated examination under which an application will be advanced out of turn for examination if the applicant files a petition to make special with the appropriate showing. *See* 37 CFR 1.102 and *Manual of Patent Examining Procedure* § 708.02 (VIII) (8th ed. 2001) (Rev. 3, August 2005) (MPEP). The USPTO is revising its procedures for applications made special under the accelerated examination program with the goal of completing examination within twelve months of the filing date of the application. *See* Part VIII (subsection The Twelve-Month Goal) for more information.

The USPTO is similarly revising the procedures for other petitions to make special, except those based on applicant's health or age or the PPH pilot program. Specifically, other petitions to make special (*i.e.*, petitions based on: manufacture, infringement, environmental quality, energy, recombinant DNA, superconductivity materials, HIV/AIDS and cancer, countering terrorism, and biotechnology applications filed by small entities (*see* MPEP § 708.02)) will be processed and examined using the revised procedure for accelerated examination. Thus, all petitions to make special, except those based on applicant's health or age or the PPH pilot program, will be required to comply with the requirements of petitions to make special under the accelerated examination program that are set forth in this notice.

Any petition to make special, other than those based on applicant's health or age or the PPH pilot program, filed on or after the effective date must meet the requirements set forth in this notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. Until the effective date, applicant may file a petition to make special in an application filed before the effective date by complying with the previous guidelines and requirements in MPEP § 708.02 (I–II, and V–XII). A petition to make special filed after the effective date will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in this notice. See Part VIII, for more information on eligibility.

Part I. Requirements for Petitions to Make Special under Accelerated Examination: A new application may be granted accelerated examination status under the following conditions:

(1) 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, energy, or countering terrorism. *See* 37 CFR 1.102(c)(2). Applicant should use form PTO/SB/28 for filing the petition.

(2) The application must be a non-reissue utility or design application filed under 35 U.S.C. 111(a).

(3) The application, petition, and required fees must be filed electronically using the 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. *See* Part VIII (subsection The Twelve-Month Goal) for more information.

(4) At the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination. For example, the application must be filed together with the basic filing fee, search fee, examination fee, and application size fee (if applicable), and an executed oath or declaration under 37 CFR 1.63. *See* Part VIII (subsection Conditions for Examination) for more information.

(5) 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. See form PTO/SB/28.

(6) 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. See form PTO/SB/28.

(7) 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. See form PTO/SB/28.

(8) 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.

(A) This preexamination search must 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 source and includes such a justification with this statement.

(B) This 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.

(C) The preexamination search must also encompass the disclosed features that may be claimed. An amendment to the claims (including any new claim) that is not encompassed by the preexamination search or an updated accelerated examination support document (*see* item 9) will be treated as not fully responsive and will not be entered. *See* Part IV (Reply by Applicant) for more information.

(D) A search report from a foreign patent office will not satisfy this preexamination search requirement unless the search report satisfies the requirements set forth in this notice for a preexamination search.

(E) Any statement in support of a petition to make special must be based on a good faith belief that the preexamination search was conducted in compliance with these requirements. *See* 37 CFR 1.56 and 10.18.

(9) At the time of filing, applicant must provide in support of the petition an accelerated examination support document.

(A) An accelerated examination support document must include 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.

(B) 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.

(C) The accelerated examination support document must include 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).

(D) The accelerated examination support document must include a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application).

(E) The accelerated examination support document must include a showing of where each limitation of the claims finds support under the first paragraph of 35 U.S.C. 112 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, ¶ 6; and (2) the structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6. 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 the first paragraph of 35 U.S.C. 112 in each such application in which such support exists.

(F) The accelerated examination support document must identify any cited references that may be disqualified as prior art under 35 U.S.C. 103(c) as amended by the Cooperative Research and Technology Enhancement (CREATE) Act (Pub. L. 108–453, 118 Stat. 3596 (2004)).

Part II. Decision on Petition To Make Special: Applicant will be notified of the decision by the deciding official. If the application and/or petition does not meet all the prerequisites set forth in this notice for the application to be granted special status (including a determination that the search is deemed to be insufficient), 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. In those instances in which the petition or accelerated examination support document is defective in one or more requirements, applicant will be given a single opportunity to perfect the petition or accelerated examination support document within a time period of one month (no extensions under 37 CFR 1.136(a)). This opportunity to perfect a petition does not apply to applications that are not in condition for examination on filing. *See* Part VIII (subsection Condition for Examination). If the document is satisfactorily corrected in a timely manner, the petition will then be granted, but the final disposition of the application may occur later than twelve months from the filing date of the application. Once a petition has been granted, prosecution will proceed according to the procedure set forth below.

Part III. The Initial Action on the Application by the Examiner: Once the application is granted special status, the application will be docketed and taken up for action expeditiously (*e.g.*, within two weeks of the granting of special status). If it is determined that all the claims presented are not directed to a single invention, the telephone restriction practice set forth in MPEP § 812.01 will be followed. Applicant must make an election without traverse during the telephonic interview. If 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 (the invention of claim 1) as constructively elected without traverse for examination. Continuing applications (*e.g.*, a divisional application directed to the non-elected inventions) will not automatically be given special status based on papers filed with the petition in the parent application. Each continuing application must on its own meet all requirements for special status.

If the USPTO determines that a possible rejection or other issue must be addressed, the examiner will telephone the applicant to discuss the issue and any possible amendment or submission to resolve such issue. The USPTO will not issue an Office action (other than a notice of allowance) unless either: (1) An interview was conducted but did not result in the application being placed in condition for allowance; or (2) there is a determination that an interview is unlikely to result in the application being placed in condition for allowance. Furthermore, prior to the mailing of any Office action rejecting the claims, the USPTO will conduct a conference to review the rejections set forth in the Office action.

If an Office action other than a notice of allowance or a final Office action is mailed, the Office action will set a shortened statutory period of one-month or thirty-days, whichever is longer. No extensions of this shortened statutory period under 37 CFR 1.136(a) will be permitted. Failure to timely file a reply will result in abandonment of the application. *See* Parts V and VI for more information on post-allowance and after-final procedures.

Part IV. Reply by Applicant: A reply to an Office action must be limited to the rejections, objections, and requirements made. Any amendment that attempts to: (1) Add claims which would result in more than three independent claims, or more than twenty total claims, pending in the application; (2) present claims not encompassed by the preexamination search (*see* item 8 of Part I) or an updated accelerated examination support document (*see* next paragraph); or (3) present claims that are directed to a nonelected invention or an invention other than previously claimed in the application, will be treated as not fully responsive and will not be entered. *See* Part VIII (subsection Reply Not Fully responsive) for more information.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document in Part I, item 9, applicant is required to provide an updated accelerated examination

support document that encompasses the amended or new claims at the time of filing the amendment. Failure to provide such updated accelerated examination support document at the time of filing the amendment will cause the amendment to be treated as not fully responsive and not to be entered. *See* Part VIII (subsection Reply Not Fully Responsive) for more information. Any IDS filed with an updated accelerated examination support document must also comply with the requirements of 37 CFR 1.97 and 1.98.

Any reply or other papers must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the papers are not filed electronically via EFS-Web, or the reply is not fully responsive, the final disposition of the application may occur later than twelve months from the filing of the application.

Part V. Post-Allowance Processing: The mailing of a notice of allowance is the final disposition for purposes of the twelve-month goal for the program. In response to a notice of allowance, applicant must pay the issue fee within three months from the date of mailing of the Notice of Allowance and Fee(s) Due (form PTOL–85) to avoid abandonment of the application. In order for the application to be expeditiously issued as a patent, the applicant must also: (1) Pay the issue fee (and any outstanding fees due) within one month from the mailing date of the form PTOL–85; and (2) not file any post-allowance papers that are not required by the USPTO (*e.g.*, an amendment under 37 CFR 1.312 that was not requested by the USPTO).

Part VI. After-Final and Appeal Procedures: The mailing of a final Office action or the filing of a notice of appeal, whichever is earlier, is the final disposition for purposes of the twelve-month goal for the program. Prior to the mailing of a final Office action, the USPTO will conduct a conference to review the rejections set forth in the final Office action (*i.e.*, the type of conference conducted in an application on appeal when the applicant requests a pre-appeal brief conference). In order for the application to be expeditiously forwarded to the Board of Patent Appeals and Interferences (BPAI) for a decision, applicant must: (1) Promptly file the notice of appeal, appeal brief, and appeal fees; and (2) not request a pre-appeal brief conference. A pre-appeal brief conference would not be of value in an application under a final Office action because the examiner will have already conducted such a conference prior to mailing the final Office action. During the appeal process, the application will be treated in accordance with the normal appeal procedures. The USPTO will continue to treat the application special under the accelerated examination program after the decision by the BPAI.

Any after-final amendment, affidavit, or other evidence filed under 37 CFR 1.116 or 41.33 must also meet the requirements set forth in Part IV (Reply by Applicant). If applicant files a request for continued examination (RCE) under 37 CFR 1.114 with a submission and fee, the submission must meet the reply requirements under 37 CFR 1.111 (*see* 37 CFR 1.114(c)) and the requirements set forth in Part IV (Reply by Applicant). The filing of the RCE is a final disposition for purposes of the twelve-month goal for the program. The application will retain its special status and remain in the accelerated examination program. Thus, the examiner will continue to examine the application in accordance with the procedures set forth in Part III and any subsequent replies filed by applicant must meet the requirements of Part IV. The goal of the program will then be to reach a final disposition of the application within twelve months from the filing of the RCE.

Part VII. Proceedings Outside the Normal Examination Process: If an application becomes involved in proceedings outside the normal examination process (*e.g.*, a secrecy order, national security review, interference, or petitions under 37 CFR 1.181–1.183), the USPTO will treat the application special under the accelerated examination program before and after such proceedings. During those proceedings, however, the application will not be accelerated. For example, during an interference proceeding, the application will be treated in accordance with the normal interference procedures and will not be treated under the accelerated examination program. Once any one of these proceedings is completed, the USPTO will process the application expeditiously under the accelerated examination program until it reaches final disposition, but that may occur later than twelve months from the filing of the application.

Part VIII. More Information: Eligibility: Any non-reissue utility or design application filed under 35 U.S.C. 111(a) on or after the effective date of this program is eligible for the revised accelerated examination program. The following types of filings are not eligible for this revised accelerated examination program: Plant applications, reissue applications, applications entering the national stage from an international application after compliance with 35 U.S.C. 371, reexamination proceedings, RCEs under 37 CFR 1.114 (unless the application was previously granted special status under the program), and petitions to make special based on applicant's health or age or under the PPH pilot program. Rather than participating in this revised accelerated examination program, applicants for a design patent may participate in the expedited examination program by filing a request in compliance with the guidelines set forth in MPEP § 1504.30. *See* 37 CFR 1.155.

Form: Applicant should use form PTO/SB/28 for filing a petition to make special, other than those based on applicant's health or age or the PPH pilot program. The form is available on EFS-Web and on the USPTO's Internet Web site at *http://www.uspto.gov/web/forms/index.html.*

Conditions for Examination: The application must be in condition for examination at the time of filing. This means the application must include the following:

(A) Basic filing fee, search fee, and examination fee, under 37 CFR 1.16 (*see* MPEP section 607(I)),

(B) Application size fee under 37 CFR 1.16(s) (if the specification and drawings exceed 100 sheets of paper) (*see* MPEP section 607(II));

(C) An executed oath or declaration in compliance with 37 CFR 1.63;

(D) A specification (in compliance with 37 CFR 1.52) containing a description (37 CFR 1.71) and claims in compliance with 37 CFR 1.75;

(E) A title and an abstract in compliance with 37 CFR 1.72;

(F) Drawings in compliance with 37 CFR 1.84;

(G) Electronic submissions of sequence listings in compliance with 37 CFR 1.821(c) or (e), large tables, or computer listings in compliance with 37 CFR 1.96, submitted via the USPTO's electronic filing system (EFS) in ASCII text as part of an associated file (if applicable);

(H) Foreign priority claim under 35 U.S.C. 119(a)–(d) identified in the executed oath or declaration or an application data sheet (if applicable);

(I) Domestic benefit claims under 35 U.S.C. 119(e), 120, 121, or 365(c) in compliance with 37 CFR 1.78 (*e.g.*, the specific reference to the prior application must be submitted in the first sentence(s) of the specification or in an application data sheet, and for any benefit claim to a non-English language provisional application, the application must include a statement that: (a) An English language translation, and (b) a statement that the translation is

accurate, have been filed in the provisional application) (if applicable);

(J) English language translation under 37 CFR 1.52(d), a statement that the translation is accurate, and the processing fee under 37 CFR 1.17(i) (if the specification is in a non-English language);

(K) No preliminary amendments present on the filing date of the application; and

(L) No petition under 37 CFR 1.47 for a non-signing inventor.

Furthermore, if the application is a design application, the application must also comply with the requirements set forth in 37 CFR 1.151–1.154.

Applicant should also provide a suggested classification, by class and subclass, for the application on the transmittal letter, petition, or an application data sheet as set forth in 37 CFR 1.76(b)(3) so that the application can be expeditiously processed.

The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (*e.g.*, a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (Part II) does not apply to applications that are not in condition for examination on filing.

Reply Not Fully Responsive: If a reply to a non-final Office action is not fully responsive, but a *bona fide* attempt to advance the application to final action, the examiner may provide one month or thirty-days, whichever is longer, for applicant to supply the omission or a fully responsive reply. No extensions of this time period under 37 CFR 1.136(a) will be permitted. Failure to timely file the omission or a fully responsive reply will result in abandonment of the application. If the reply is not a *bona fide* attempt or it is a reply to a final Office action, no additional time period will be given. The time period set forth in the previous Office action will continue to run.

Withdrawal From Accelerated Examination: There is no provision for "withdrawal" from special status under the accelerated examination program. An applicant may abandon the application that has been granted special status under the accelerated examination program in favor of a continuing application, and the continuing application will not be given special status under the accelerated examination program unless the continuing application is filed with a petition to make special under the accelerated examination program. The filing of an RCE under 37 CFR 1.114, however, will not result in an application being withdrawn from special status under the accelerated examination program.

The Twelve-Month Goal: The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. The twelve-month goal is successfully achieved when one of the following final dispositions occurs: (1) The mailing of a notice of allowance; (2) the mailing of a final Office action; (3) the filing of an RCE; or (4) the abandonment of the application. The final disposition of an application, however, may occur later than the twelve-month timeframe in certain situations (*e.g.*, an IDS citing new prior art after the mailing of a first Office action). *See* Part VII for more information on other events that may cause examination to extend beyond this twelve-month time frame. In any event, however, this twelve-month timeframe is simply a goal. Any failure to meet the twelve-month goal or other issues relating to this twelve-month goal are neither petitionable nor appealable matters.

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and previously approved by OMB under OMB control number 0651–0031. The Office has submitted a Change Worksheet to OMB for review of form PTO/SB/28 Petition to Make Special Under the Accelerated Examination.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Section 708.02 of the *Manual of Patent Examining Procedure* will be revised in due course to reflect this change in practice.

Dated: June 20, 2006.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E6–10022 Filed 6–23–06; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designation under the Textile and Apparel Commercial Availability Provisions of the United States Caribbean Basin Trade Partnership Act (CBTPA)

June 21, 2006.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Designation.

EFFECTIVE DATE: June 26, 2006.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain 100 percent cotton, yarn-dyed, 3- or 4-thread twill weave, flannel fabrics, of combed, ring spun single yarns, of the specifications detailed below, classified in subheading 5208.43.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in products in Categories 340, 341, and 350, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The CITA hereby designates products in Categories 340, 341, and 350 that are both cut and sewn or otherwise assembled in one or more eligible CBTPA beneficiary countries from such fabrics, as eligible for quota free and duty free treatment under the textile and apparel commercial availability provisions of the CBTPA and eligible under HTSUS subheading 9820.11.27 to enter free of quota and duties, provided that all other fabrics in the referenced apparel articles are wholly formed in the United States from yarns wholly formed in the United States.

FOR FURTHER INFORMATION CONTACT: Maria K. Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of CBERA, as added by Section 211(a) of the CBTPA; Presidential Proclamation 7351 of October 2, 2000; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The commercial availability provision of the CBTPA provides for duty free and quota free treatment for apparel articles that are both cut (or knit to shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely

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16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

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SEP 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Ricardo DELGADO :
Application No. 11/974,461 : DECISION ON PETITION
Filed: October 12, 2007 : TO WITHDRAW
Attorney Docket No. 22666-002 : 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 June 18, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Office cannot approve the request at this time since the reason provided does 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, "if 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, No longer with firm, does not meet any of the conditions set forth in 37 CFR 10.40

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PATEL & ALUMIF PC
16830 VENTURA BLVD., SUITE 360
ENCINO, CA 91436

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/26/2010

Applicant	: Clifford J. WEBER	: DECISION ON REQUEST FOR
Patent Number	: 7574399	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/974,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **70** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Weber et al.	:	
Application No. 11/974,468	:	DECISION ON PETITION
Filing Date: October 12, 2007	:	PURSUANT TO
Issue Date: August 11, 2009	:	37 C.F.R. § 1.78(A)(3)
Patent No. 7,574,399	:	
Attorney Docket No.:	:	
00322.0009.DVUS01	:	
Title: HEDGING EXCHANGE TRADED	:	
MUTUAL FUNDS OR OTHER PORTFOLIO	:	
BASKET PRODUCTS	:	

This is a decision on the petition filed on August 25, 2009, pursuant to 37 C.F.R. § 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/174,505, which has matured into U.S. patent No. 7,571,130, by way of a certificate of correction.

This petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

A review of the file record fails to disclose that a proper claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii), and Patentee further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).[1]

1 The transmittal sheet which was included on filing contains a benefit claim to Application No. 10/174,505, however the specification does not contain a benefit claim, and the electronic record does not contain an Application Data Sheet.

The present application was filed on October 12, 2007. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

A petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in 37 C.F.R. § 1.17(t), and;
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner is advised that the granting of this petition should not be viewed as an indication that a determination has been made that this patent is entitled to claim benefit of the prior-filed application. A determination that patentee is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized on the first page of this petition, the $1,410 surcharge fee will be charged to Deposit Account No. 08-3038 in due course.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[2]

Chris Bottorff
Supervisor
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.

4 JUN 2009

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Nancy Chiu Wilker, Ph.D.
Chief Intellectual Property Counsel
CELL SIGNALING TECHNOLOGY, INC.
3 Trask Lane
Danvers MA 01923

In re Application of :
GUO, Ailan, et al. :
U.S. Application No.: 11/974,480 :
Filing Date: 12 October 2007 :
Attorney Docket No.: CST-222 : DECISION
For: REAGENTS FOR THE DETECTION :
OF PROTEIN PHOSPHORYLATION :
IN CARCINOMA SIGNALING :
PATHWAYS :

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

On 12 October 2007, applicant filed a transmittal letter under 37 CFR 1.53(b), indicating this application is a filing under 35 USC 111(a).

On 31 January 2008, the Office mailed a Filing Receipt.

On 06 January 2009, applicant filed a petition under 37 CFR 1.78 and a request for a corrected filing receipt.

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

The USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

Here, the transmittal letter stated that this application was a filing under 37 CFR 1.53(b), an instruction to process the application under 35 USC 111(a). As such, this application was processed under 35 USC 111(a), not 35 USC 371.

U.S. Statutes and Regulations do not make specific provision for conversion of the application to a national phase 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.

Applicant has created a 35 USC 111(a) application, but has not made a valid priority claim to the international application and its priority document. A petition under 37 CFR 1.78 can be used to add the priority claim, but will not act to convert this application to a filing under 35 USC 371.

CONCLUSION

As indicated above, this application will be processed as a 35 USC 111(a) filing.

If reconsideration on the merits is desired, a proper reply must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web, or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the Office of Patent Application Processing for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

16 SEP 2009

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Nancy Chiu Wilker, Ph.D.
Chief Intellectual Property Counsel
CELL SIGNALING TECHNOLOGY, INC.
3 Trask Lane
Danvers MA 01923

In re Application of :
GUO, Ailan, et al. :
U.S. Application No.: 11/974,480 :
Filing Date: 12 October 2007 :
Attorney Docket No.: CST-222 : DECISION
For: REAGENTS FOR THE DETECTION :
OF PROTEIN PHOSPHORYLATION :
IN CARCINOMA SIGNALING :
PATHWAYS :

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) to accept unintentionally delayed claims for priority filed 06 July 2009.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. §

120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-0459
ATTN: Office of PCT Legal Administration

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

/Bryan Lin/
Bryan Lin
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

18 DEC 2009

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Nancy Chiu Wilker, Ph.D.
Chief Intellectual Property Counsel
CELL SIGNALING TECHNOLOGY, INC.
3 Trask Lane
Danvers MA 01923

In re Application of :
GUO, Ailan, et al. :
U.S. Application No.: 11/974,480 :
Filing Date: 12 October 2007 :
Attorney Docket No.: CST-222 : DECISION
For: REAGENTS FOR THE DETECTION :
OF PROTEIN PHOSPHORYLATION :
IN CARCINOMA SIGNALING :
PATHWAYS :

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) to accept unintentionally delayed claims for priority filed 15 October 2009.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment submitted 15 October 2009, including consideration by the examiner of the claim for benefit of the prior-filed applications.

/Bryan Lin/
Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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Julian C. Renfro, Esquire
Post Office Box 2601
Winter Park, FL 32790-2601

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of :
GUARD, Edward J.. :
Application No. 11/974,484 :
Filed: October 15, 2007 :
Attorney Docket No. **GUARD/Drink Holder** :
:

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 October 15, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor Edward J. Guard, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination at 571-272-4000.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

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JAN 2 1 2009

In re Application of	:	
Grasser	:	DECISION REFUSING STATUS
Application No. 11/974,493	:	UNDER 37 CFR 1.47(b)
Filed: October 12, 2007	:	
Attorney Docket No. P0007-002001	:	

This is in response to the "Petition Under 37 CFR 1.47(b), filed May 12, 2008 (certificate of mailing date May 8, 2008)

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

Petitioner is reminded that a grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor.
(5) proof of proprietary interest: and
(6) proof of irreparable damage.

The papers filed on May 12, 2008 (certificate of mailing date May 8, 2008) did not include a formal petition, even though one was referenced in the transmittal letter. Please submit a copy of the formal Rule 1.47(b) petition. When the formal Rule 1.47(b) petition is filed, the petition fee will be charged the merits of the petition will be addressed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Grasser :
Application No. 11/974,493 :
Filed: October 12, 2007 :
Attorney Docket No. P0007-002001 :

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed on March 26, 2009.

The petition is **GRANTED**.

Pursuant to petitioner's authorization, deposit account no. 50-0750 will be charged the required $200.00 petition fee.

It is noted that the Office mailed a Letter Regarding a New Notice and/or the Status of the Application on July 17, 2008. This letter stated that applicant may disregard the previous notice mailed on November 8, 2007. The undersigned believes that the letter and the second notice mailed July 17, 2008, not the original Notice to File Missing Parts of Nonprovisional Application, was mailed in error. The July 17, 2008 Notice was mailed in error, as it set requirements as if Stuart MacNeill were a joint inventor, along with Mark Grasser. The November 8, 2007 Notice was proper. The July 17, 2008 Notice was mailed in error.

Petitioner has shown that the non-signing inventor, Mark Grasser, has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK GRASSER
13 BAYBERRY DR.
ELIOT ME 03903

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MAY 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Grasser : LETTER
Application No. 11/974,493 :
Filed: October 12, 2007 :
Attorney Docket No. P0007-002001 :

Dear Mr. Grasser:

You are named as the sole inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Attorney of Record: KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

UNITED STATES PATENT AND TRADEMARK OFFICE

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KOKKA & BACKUS, PC
SUITE 103
200 PAGE MILL ROAD
PALO ALTO CA 94306

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :

HARRIS, Kerry S. :
Application No. 11/974,500 : DECISION ON PETITION
Filed: October 11, 2007 : TO WITHDRAW
Attorney Docket No. **IHT-001CON1** : 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 27, 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: **KERRY HARRIS**
IHT TECHNOLOGY, INC.
7715 MAINLAND RD.
SUITE 115
SAN ANTONIO, TX 78250

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PALO ALTO CA 94306

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :

HARRIS, Kerry S. :
Application No. 11/974,500 : DECISION ON PETITION
Filed: October 11, 2007 : TO WITHDRAW
Attorney Docket No. **IHT-001CON1** : 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 September 18, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Scott S. Kokka on behalf of all attorneys of record who are associated with customer No. 53830. 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 Kerry Harris at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KERRY HARRIS**
IHT TECHNOLOGY, INC.
7715 MAINLAND RD.
SUITE 115
SAN ANTONIO, TX 78250

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Porter, Wright, Morris & Arthur LLP
IP DOCKETING, Attn: Belinda Reynolds
29th Floor
41 South High St.
Columbus, OH 43215-6194

In re Application of :
Christopher T. Holt et al. :
Application No. 11/974,520 : DECISION ON PETITION
Filed: October 12, 2007 :
Attorney Docket No. 3995591-164262 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 8, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

Docket No. 3995591-164262 **PATENT**

CERTIFICATE OF EFS ELECTRONIC TRANSMISSION
I hereby certify that this paper is being transmitted to the United States Patent and Trademark Office by the USPTO EFS web electronic filing system on November 21, 2008.

/John T. Dipre/
John T. Dipre

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	Christopher T. Holt et al	:	Conf. No.: 5155
Serial No.:	11/974,520	:	Group Art Unit:
Filing Date:	October 12, 2007	:	Examiner:

For: **HYDROGEN SENSITIVE COMPOSITE MATERIAL, HYDROGEN GAS SENSOR, AND SENSOR FOR DETECTING HYDROGEN AND OTHER GASES WITH IMPROVED BASELINE RESISTANCE**

PETITION UNDER 37 C.F.R. 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with the provisions of 37 C.F.R. 1.137(b), Applicants petition for revival of the presently unintentionally abandoned application. The present application was unintentionally abandoned after the Response to the Notice to File Missing Parts filed May 7, 2008 was deemed an Incomplete Reply. The Notice to File Missing Parts was mailed November 8, 2007, the Notice of Incomplete Reply was mailed June 3, 3008 and the Notice of Abandonment was mailed September 12, 2008.

In further accord with the provisions of 37 C.F.R. 1.137(b)(1), submitted herewith are a Response to the Notice of Incomplete Reply and the required replacement drawings in compliance with 37 C.F.R. 1.84 and 1.121(d). In accordance with the provisions of 37 C.F.R.

1.137(b)(2), the Commissioner is hereby authorized to charge the small-entity petition fee of $810.00 and any additional fees which may be required in connection with this Petition, or credit any overpayment, to Deposit Account No. 503915.

In accordance with the provisions of 37 C.F.R. 1.137(b)(3), the undersigned verifies that the entire delay in filing the enclosed Replacement Drawings from the due date of June 8, 2008 until the filing of the present Petition was unintentional.

Since the Application has a filing date subsequent to June 8, 1995, no terminal disclaimer is required.

Accordingly, it is believed that the present Petition is grantable and an Official Filing Receipt should be issued for this application.

Respectfully submitted,

/John T. Dipre/

John T. Dipre, Reg. No. 58,925
Porter, Wright, Morris & Arthur LLP
250 East Fifth Street, Suite 2200
Cincinnati, Ohio 45202
(513) 369-4239

CINCINNATI/151759 v.01

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Zander Nosler et al. : DECISION ON PETITION
Application No. 11/974,521 : UNDER 37 CFR §§ 1.78(a)(3)
Filed: October 11, 2007 : AND 1.78(a)(6)
Attorney Docket No. SBUX1.138A :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(e) and 120 for the benefit of priority to the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

This pending nonprovisional application was filed on October 11, 2007, and claims the benefit of prior-filed PCT Application No. PCT/US2006/013930 which was filed on April 11, 2006, for which priority is claimed, and was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/719,069, which was filed on September 20, 2005, for which priority is also claimed. A reference to both the prior-filed international application and the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the

expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

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 slightly 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 statements 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.

The petition does not comply with item (1) above.

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed international and provisional applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date. See 35 U.S.C. § 132(a). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C.

§§ 119(e) and 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. §§ 119(e) and 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment in compliance with 37 C.F.R. § 1.121 to correct the above matters are required.

Any renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the deciding official.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any 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
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Paper No.

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OCT 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Zander Nosler et al.	:	DECISION ON RENEWED PETITION
Application No. 11/974,521	:	UNDER 37 CFR §§ 1.78(a)(3)
Filed: October 11, 2007	:	AND 1.78(a)(6)
Attorney Docket No. SBUX1.138A	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(e) and 120 for the benefit of priority to the prior-filed international and provisional applications set forth in the concurrently filed amendment.

This renewed petition is **GRANTED**.

This pending nonprovisional application was filed on October 11, 2007, and claims the benefit of prior-filed PCT Application No. PCT/US2006/013930 which was filed on April 11, 2006, for which priority is claimed, and was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/670,955, which was filed on April 11, 2005, for which priority is claimed, Application No. 60/719,069, which was filed on September 20, 2005, for which priority is claimed, and Application No. 60,790,417, which was filed on April 6, 2006, for which priority is also claimed. A reference to both the prior-filed international application and the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title. A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on December 11, 2008, along with an amendment to the specification, the surcharge, and a statement that was construed as the proper statement of unintentional delay. The original petition was dismissed via the mailing of a decision on February 18, 2009, which indicated that the second and third requirements of 37 C.F.R. § 1.78(a)(3) had been satisfied, but that the first requirement had not been met, as the reference improperly incorporated by reference both the prior-filed international application and the provisional applications.[1]

With this renewed petition, Petitioner has submitted an amendment to the specification, along with an argument that the presence of the filing date, attorney docket number, and the title of provisional application 60/790,417 were sufficient identifiers, such that an incorporation by reference statement along with the subsequent inclusion of the serial number would not constitute new matter.

This argument has been considered, and has been deemed to be persuasive: the language employed in the present application adequately incorporated the disclosure of previously filed provisional application serial No. 60/790,417 by reference and

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1 On initial deposit, benefit was claimed to three provisional applications (the serial number for application number 60/790,417 was left blank, and only the filing date, the attorney docket number, and the title was included). The specification did not include a benefit claim to the international application.

hence, the amendment to specify the serial number did not introduce new matter into the specification.[2]

The petition fee will be refunded to Petitioner's credit card in due course.

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 3742 for consideration by the examiner of the claim under

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2 See In re Fouche, 169 USPQ 429 (C.C.P.A. 1971).

35 U.S.C. §§ 120 and 119(e) of the prior-filed international and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/974,521	10/11/2007	3742	1155	SBUX1.138A	43	3

CONFIRMATION NO. 5141

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 10/28/2009

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)

Zander Nosler, Seattle, WA;
Randy Hulett, Seattle, WA;
Jorah Wyer, Providence, RI;
Michael Baum, Seattle, WA;
Jeff Allison, Lake Oswego, OR;

Assignment For Published Patent Application

Coffee Equipment Company, Seattle, WA

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US2006/013930 04/11/2006
which claims benefit of 60/670,955 04/11/2005
and claims benefit of 60/719,069 09/20/2005
and claims benefit of 60/790,417 04/06/2006

Foreign Applications

If Required, Foreign Filing License Granted: 11/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/974,521**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Machine for brewing a beverage such as coffee and related method

Preliminary Class

099

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

JAMES L. JACKSON
JAMES L. JACKSON, PC
10723 SUGAR HILL DRIVE
HOUSTON, TX 77042

COPY MAILED

FEB 1 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerald A. Stunkard	:	
Application No. 11/974,536	:	DECISION ON PETITION
Filed: October 15, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. STU004	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 9, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3753 for action on the merits commensurate with this decision.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DR. ALBERT MONTAGUE, P.E., P.P.,
Apt 3i
100 OCEANA DR. WEST
BROOKLYN NY 11235

COPY MAILED

OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Albert Montagle :
Application No. 11/974,555 : ON PETITION
Filed: October 15, 2007 :
Title: Backflow Preventer Valve :

This is in response to the communication, filed August 11, 2008, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On November 13, 2007, the Office mailed a Notice to File Corrected Application Papers, which set a two month shortened statutory period to reply. The application became abandoned on January 14, 2008, for failure to submit a timely response to the November 13, 2007 Notice. On July 18, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the Notice to File Corrected Application Papers. Specifically, petitioner states that he did not receive the Notice. Petitioner states that he represents a small entity with a mail handling and filing system to insure that appropriate mail received is processed in a methodical timely manner.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice to File Corrected Application Papers, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains

files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice to File Corrected Application Papers of November 13, 2007, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after November 13, 2007, to demonstrate nonreceipt of the Notice to File Corrected Application Papers Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the November 13, 2007 Notice to File Corrected Application Papers was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after November 13, 2007; the period when he would have received the Notice to File Corrected Application Papers.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the November 13, 2007 Notice to File Corrected Application Papers. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the November 13, 2007 Notice to File Corrected Application Papers accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR

1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Notice to File Corrected Application Papers dated November 13, 2007.

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/974,555	10/15/2007	Albert Montague	

CONFIRMATION NO. 6505

DR. ALBERT MONTAGUE, P.E., P.P.,
Apt 3i
100 OCEANA DR. WEST
BROOKLYN, NY 11235

FORMALITIES LETTER

OC000000026627569

Date Mailed: 11/13/2007

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The application includes photographs of the invention subject matter that appear capable of illustration and which are illegible after scanning (see 37 CFR 1.84(b)). See Figure(s) 4, 5, 8-35.
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 10.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

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.

/pwallace sr/

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

KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 AVENUE OF THE AMERICAS 26TH FLOOR
NEW YORK, NY 10036

COPY MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Albert Montague :
Application No.11/974,555 : ON PETITION
Filed: October 15, 2007 :
For: Backflow Preventer Valve :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers, which was mailed on November 13, 2007. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 14, 2008. A Notice of Abandonment was mailed on July 18, 2008. A petition filed under 37 CFR 1.181 was dismissed on October 27, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

As to item (1) a review of the drawings shows they do not meet the requirements of 37 CFR 1.121. When the Office receives replacement sheets of drawings for patent applications after the application has been filed, a cover letter identifying the drawings by application number should accompany them. The application number and other identifying indicia should be placed on each sheet of drawings in accordance with 37 CFR 1.84(c). Each drawing

sheet submitted after the filing date of the application must be identified as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DR. ALBERT MONTAGUE, P.E., P.P.,
Apt 3i
100 OCEANA DR. WEST
BROOKLYN NY 11235

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of :
Albert Montague :
Application No.11/974,555 : ON PETITION
Filed: October 15, 2007 :
For: Backflow Preventer Valve :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers, which was mailed on November 13, 2007. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 14, 2008. A Notice of Abandonment was mailed on July 18, 2008. Petitions were dismissed on October 27, 2008 and February 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the

address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Aaron S. Haleva
1177 Avenue of the Americas
New York, NY 10036

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Alfred D. Lobo & Co., L.P.A.
Suite # 2
2655 Euclid Hts. Blvd.
Cleveland Hts. OH 44106-2851

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Lee Bullock	:	
Application No. 11/974,563	:	DECISION ON PETITION
Filed: October 15, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. BUL-071	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 3, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement declaring that he applicant 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 3612 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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PATENT LAW OFFICES OF RICK MARTIN, PC
PO BOX 1839
LONGMONT CO 80502

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SEP 26 2008

In re Application of :
Yunghsien Vincent Su :
Application Number: 11/974622 :
Filing Date: 10/15/2007 : ON PETITION
Attorney Docket Number: 875-001-1 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on August 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on January 15, 2008, for failure to timely submit replacement drawings and a $65.00 surcharge for their late filing as required by the Notice to File Corrected Application Papers mailed on November 14, 2007, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on July 18, 2008.

Receipt of the replacement drawings and surcharge is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the power of attorney filed on August 13, 2008, is acknowledged. All future correspondence will be mailed to the address indicated therein.

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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DEC 12 2008

OFFICE OF PETITIONS

In re Application of :
Choon Gi **CHOI**, et al. :
Application No. 11/974,635 : DECISION GRANTING PETITION
Filed: October 15, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **5882P118** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 8, 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 November 21, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2874 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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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Oakes, Jeffrey L.	:	
Application No. 11/974,645	:	DECISION ON PETITION
Filed: October 15, 2007	:	
Attorney Docket No. CECO-375	:	

This is a decision on the petition, filed March 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance, mailed August 13, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on December 2, 2009.

Petitioner asserts that the Office action dated August 13, 2009 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of August 13, 2009. In this regard, the Office received a Power of Attorney to Prosecute Applications before the USPTO and a Change of Correspondence Address on April 28, 2009, prior to the mailing of the Office action of August 13, 2009. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed August 13, 2009 is hereby vacated and the holding of abandonment withdrawn.

The Power of Attorney and Change of Correspondence Address received April 28, 2009 are hereby accepted and have been updated in the USPTO system.

This application is being referred to the Technology Center technical support staff of Art Unit 2839 for re-mailing the Office action of August 13, 2009 and resetting the period for reply.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
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WESTFIELD NJ 07090

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of
Yon et al.
Application No. 11/974,651
Filed: October 15, 2007
Attorney Docket No. 136002

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 3, 2009.

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. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were not appointed via Customer Number. Therefore, requesting to withdraw via Customer Number is not the appropriate course.

Further, 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, all future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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April 12, 2010 BC

In re application of Kevin L. Nichols et al. Serial No. 11/974,663 Filed: October 15, 2007 For: SOLID STATE DRAWING A FILLED POLYMER COMPOSITION TO A STABLE EXTENT OF CAVITATION AND DENSITY	:	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 filed February 26, 2010.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO 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 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) 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 EPO examiner in the EPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition fail because:
(1) The present US application does not claim any foreign priority.

Applicant is given a time period of **ONE MONTH OR THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected within the time period given, the application with await action in its regular turn.

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Boris Bershadsky :
Application No. 11/974,681 : DECISION ON APPLICATION
Filed: October 15, 2007 : FOR
Atty Docket No.4842-124 : PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705(b)," filed October 21, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from ninety-nine (99) days to one hundred and five (105) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **one hundred five (105) days** (105 days of Office delay - 0 days of applicant delay). A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On July 24, 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 99 days. Applicant timely filed the instant application for patent term adjustment.[1]

Applicant disputes the reduction of 6 days for applicant delay in responding to the Notice to File Missing Parts of Non-Provisional Application mailed November 14, 2007. Specifically, applicant states:

[1] PALM finance records indicate the issue fee was paid on October 21, 2009.

> Applicants note that the USPTO has charged Applicants with **6** days of delay due to the filing of a Small Entity Statement on February 20, 2008. Applicants made no such filing. Rather, Applicants had made an assertion of small entity status on February 14, 2008, six (6) days prior.
>
> For the present application, the total patent term adjustment pursuant to 37 CFR § 1.703(f) is the period of adjustment pursuant to 37 CFR § 1.703 reduced by any delays pursuant to 37 CFR § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be **105** days - **0** days = **105** days, instead of **99** days indicated on the Notice of Allowance...

Excerpt taken from the "Request for Reconsideration of Patent Term Adjustment Pursuant to 37 CFR § 1.705(b)", filed October 21, 2009, page 2-3.

Applicant's argument is well taken and is supported by a review of the file record. The record supports the conclusion that a response to the Notice to File Missing Parts of Non-Provisional was filed on February 14, 2008. It is noted that the response filed February 14, 2008, included an assertion of small entity status. It is further noted that on February 20, 2008, an Information Disclosure Statement was filed and was not accompanied by any paper that would have constituted a response to the Notice to File Missing Parts of Non-Provisional Application such that a reduction to the patent term adjustment pursuant to 37 CFR 1.704(b) would have been warranted. Thus, applicants did not fail to engage in reasonable efforts to conclude processing by delaying responding to the Notice to File Missing Parts of Non-Provisional Application mailed November 14, 2007. Accordingly, the period of reduction of 6 days is not warranted and is being removed.

The $200.00 fee as set forth in 37 CFR 1.18(e) will be charged to deposit account 23-1925. No additional fees are required.

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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Thursday
Date: 1/28/2010

PALM INTRANET

Time: 13:39:07

PTA Calculations for Application: 11/974681			
Application Filing Date:	10/15/2007	PTO Delay (PTO):	105
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	6
Post-Issue Petitions:	0	Total PTA (days):	105
PTO Delay Adjustment:	6		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	01/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	6		
42	07/24/2009	MAIL NOTICE OF ALLOWANCE			
41	07/23/2009	ISSUE REVISION COMPLETED			
40	07/23/2009	DOCUMENT VERIFICATION			
39	07/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	07/23/2009	CASE DOCKETED TO EXAMINER IN GAU			
37	07/22/2009	EXAMINER'S AMENDMENT COMMUNICATION			
36	07/22/2009	NOTICE OF ALLOWABILITY			
32	02/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	02/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	05/06/2009	DATE FORWARDED TO EXAMINER			
29	05/04/2009	RESPONSE TO ELECTION / RESTRICTION FILED			
28	05/04/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	03/30/2009	MAIL RESTRICTION REQUIREMENT	105		-1
26	03/26/2009	REQUIREMENT FOR RESTRICTION / ELECTION			
25	10/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
24	09/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
23	09/04/2008	PG-PUB ISSUE NOTIFICATION			
22	08/14/2008	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	02/20/2008	REFERENCE CAPTURE ON IDS			
20	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/19/2008	APPLICATION DISPATCHED FROM OIPE			

18	03/04/2008	SENT TO CLASSIFICATION CONTRACTOR			
17	03/04/2008	FILING RECEIPT - UPDATED			
16	03/04/2008	APPLICATION IS NOW COMPLETE			
15	02/14/2008	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
13	02/14/2008	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	02/14/2008	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
10	02/20/2008	SMALL ENTITY STATEMENT (37 CFR 1.27)		6	4
7	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	11/14/2007	FILING RECEIPT			
4	11/14/2007	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/30/2007	CLEARED BY OIPE CSR			
2	10/22/2007	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/16/2007	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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RALEIGH, NC 27611-8539

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OFFICE OF PETITIONS

In re Application of :
John F. LYONS, JR. :
Application No. 11/974,701 : DECISION ON PETITION
Filed: October 16, 2007 : TO WITHDRAW
Attorney Docket No. 4062-002 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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.

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: JOHN F. LYONS, JR.
3820 ECHO FARMS BLVD.
WILMINGTON, NC 28412

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In re Application of	:	
John F. LYONS JR.	:	
Application No. 11/974,701	:	DECISION ON PETITION
Filed: October 16, 2007	:	TO WITHDRAW
Attorney Docket No. 4062-002	:	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 December 8, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John F. Lyons on behalf of the attorneys of record associated with Customer No. 64843.

The attorneys of record associated with Customer No. 64843 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 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: JOHN F. LYONS
3820 ECHO FARMS BLVD.
WILMINGTON, NC 28412

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RALEIGH, NC 27611

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FEB 25 2009

OFFICE OF PETITIONS

In re Application of :
John F. LYONS JR. :
Application No. 11/974,701 :
Filed: October 17, 2007 :
Attorney Docket No. 4062-002 :

CORRECTED
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 8, 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 Jinan Glasgow on behalf of the attorneys of record associated with Customer No. 64843.

The attorneys of record associated with Customer No. 64843 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN F. LYONS
3820 ECHO FARMS BLVD.
WILMINGTON, NC 28412

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Guolin LI, et *al.*	:	
Application No. 11/974,744	:	DECISION GRANTING PETITION
Filed: October 15, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **25368-14084**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 7, 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 31, 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 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Petition to Correct Inventorship under 37 CFR 1.48(a).

/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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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Bernd Gentner	: DECISION ON REQUEST FOR
Patent Number	: 7637451	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/974,748	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
Douglas Robert Anton, et. al.	:	
Application No. 11/974,772	:	ON PETITION
Filed: October 16, 2007	:	
Attorney Docket No. CL3249USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 25, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Missing Parts of Nonprovisional Application mailed November 8, 2007. A Notice of Abandonment was mailed on July 14, 2008.

The Power of Attorney and Correspondence Address Indication Form filed on July 25, 2008 has not been accepted. However, in accordance with 37 CFR 1.34(a), the signature of Angela Grayson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed Oath/Declaration and $130 for the surcharge; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney and Correspondence Address Indication Form filed on July 25, 2008 failed to contain the signature of all the inventors. 37 CFR 1.33(b) states:

> Amendments and other papers filed in the application must be signed by:
>
> (1) An attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) **All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

If the instant petition is signed or submitted on behalf of the assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) can be found on the USPTO Web site (PTO/SB/96).

This application file is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Kelly W. Cunningham, Esq.
Cislo & Thomas LLP
Suite 500
Santa Monica, CA 90401

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
Richard Nudyke :
Application No. 11/974,778 : DECISION ON PETITION
Filed: October 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 09-22176 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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 includes a declaration stating that Applicant was over 65 years of age, but is now deceased. Accordingly, the above-identified application cannot be accorded "special" status.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602. 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 3641 for action on the merits commensurate with this decision.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Kelly W. Cunningham, Esq.
Cislo & Thomas LLP
Suite 500
Santa Monica, CA 90401

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OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Richard Nudyke :
Application No. 11/974,778 : DECISION ON PETITION
Filed: October 16, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. 09-22176 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 18, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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 includes a declaration stating that the Assignee was over 65 years of age. Accordingly, the above-identified application cannot be accorded "special" status. Applications to make special on the basis of age require that the statement be limited to at least one of the inventors.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at 571-272-0602. 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 3641 for action on the merits commensurate with this decision.

Thurman K. Page
Petitions Examiner
Office of Petitions

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CISLO & THPMAS LLP
1333 2nd Street
Suite #500
Santa Monica, CA 90401-4110

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OFFICE OF PETITIONS

In re Application of :
Richard NUDYKE :
Application No. 11/974,778 : DECISION ON PETITION
Filed: October 16, 2007 :
Attorney Docket No. 09-22176 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, and supplemented October 30, 2009 and November 12, 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(Notice) mailed, November 9, 2007, which set a two months period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response to the Notice, (2) the petition fee of $810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned, at (571)272-0602.

This application is being referred to the Office of Data Management for appropriate action and processing.

Thurman K. Page
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 2600

CARRIER BLACKMAN AND ASSOCIATES
43440 WEST TEN MILE ROAD
EATON CENTER
NOVI MI 48375

In re Application of	:	
NAGAOKA, NOBUHARU, et al.	:	DECISION ON REQUEST TO
Application No. 11/974,819	:	PARTICIPATE IN PATENT
Filed: October 16, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. **SAA-111-A**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request for reconsideration to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 14, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Kenneth A. Wieder/

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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JEAN C. BAKER, ESQ.
QUARLES & BRADY LLP
SUITE 2040
MILWAUKEE WI 53202-4497

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Richard H. Weindruch et al. :
Application No. 11/974,837 : ON PETITION
Filed: November 20, 2006 :
Attorney Docket No. 960296.96480

This is a decision on the petition filed May 23, 2007, under 37 CFR 1.137(b), 37 CFR 1.182 and 37 CFR 1.183, requesting that the above-identified application be accorded a filing date of November 20, 2006. The petition is treated under 37 CFR 1.53.

Petitioner argues that in response to a non-Final Office Action mailed May 19, 2006 in 10/307,706, a divisional application was filed on November 20, 2006, and thus should have been accorded a filing date.

In accordance with petitioner's argument, a review of the Office PALM records confirms that the instant application was assigned application no. 11/974,837 but was not accorded a filing date. In support, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of November 20, 2006 was supplied with the present petition. The postcard receipt lacks any notation of non-receipt of any item listed.

In view thereof, the petition under 37 CFR 1.53 is **GRANTED** and there is no need to treat the petition alternatively filed under 37 CFR 1.137(b) and 37 CFR 1.183 in application no. 11/974,837. Therefore, the petitions under 37 CFR 1.137(b) and 37 CFR 1.183 in 11/974,837, are both **DISMISSED** as involving moot issues.

The petition fee in the amount of $400.00 has been credited back to deposit account no. 17-0055.

The application is being returned to the Office of Patent Application Processing for processing with a filing date of November 20, 2006.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Fitzpatrick Cella (Marvell)
30 Rockefeller Plaza
New York, NY 10112-3800

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OFFICE OF PETITIONS

In re Application of
Qiang Luo
Application No. 11/974,853
Filed: October 15, 2007
Attorney Docket No. MP1390

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 31, 2008.

The request is **moot because a revocation of power of attorney has been previously filed.**

A review of the file record indicates that the power of attorney to Michael K. O'Neill and all attorneys/agents associated with customer number 47215 have been revoked by the assignee of the patent application on November 7, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suite 1900
1211 S.W. Fifth Avenue
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/974,853	10/15/2007	Qiang Luo	MP1390

CONFIRMATION NO. 6223

POWER OF ATTORNEY NOTICE

47215
FITZPATRICK CELLA (MARVELL)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

OC00000033679811

Date Mailed: 12/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

In re Application of	:	
Jung-Pa SEO	:	
Application No. 11/974,874	:	DECISION GRANTING PETITION
Filed: October 16, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P2801US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 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 August 4, 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 2873 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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ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Mail Date: 08/03/2010

Applicant	: Jung-pa Seo	: DECISION ON REQUEST FOR
Patent Number	: 7667897	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/974,874	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver CO 80237

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
Whellock
Application No. 11/974,905
Filed: October 16, 2007
Attorney Docket No. 50528-00004

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 9, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 17, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The application was published on June 19, 2008.

The power of attorney, filed March 5, 2009, has been entered and made of record. Please find enclosed a Notice regarding the requested changes.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center Art Unit 1795 for examination in due course.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/974,905	10/16/2007	John G. Whellock	

CONFIRMATION NO. 6121

POA ACCEPTANCE LETTER

25231
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

OC000000035141747

Date Mailed: 03/24/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2009.

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.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/974,905	10/16/2007	John G. Whellock	

CONFIRMATION NO. 6121

POWER OF ATTORNEY NOTICE

Ramon L. Pizarro
Suite 200
3515 South Tamarac Drive
Denver, CO 80237

OC000000035141741

Date Mailed: 03/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2009.

- 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).

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAY 06 2009

OFFICE OF PETITIONS

MARSH, FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER, CO 80237

In re Application of :
John G. Whellock :
Application No. 11/974,934 : DECISION GRANTING PETITION
Filed: October 16, 2007 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 50528-00003 :

This is a decision on the petition, filed March 11, 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 October 17, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 13, 2009 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 1795 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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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
11/974,934	10/16/2007	John G. Whellock	50528-00003

CONFIRMATION NO. 6314

25231
MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

NONPUBLICATION RESCISSION LETTER

Date Mailed: 05/05/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/13/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WILLIAM W. HAEFLIGER
201 S. LAKE AVE, SUITE 512
PASADENA CA 91101

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JAN 08 2008

OFFICE OF PETITIONS

In re Application of :
MAGENER, MICHAEL :
Application No. 11/974,936 : ON PETITION
Filed: 10/17/2007 :
Attorney Docket No. 12,991 :

This is a decision on the petition under 37 CFR 1.53(e), filed December 3, 2007, requesting that the above-identified application be accorded a filing date of October 17, 2007.

On October 17, 2007, applicant deposited the above-identified application. On November 16, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," indicating that the application had not been accorded a filing date as the application was deposited without any drawings and that the filing date would be the date of receipt of the omitted items.

On December 3, 2007, applicant submitted the present petition, 6 drawing sheets, and a returned, date-stamped postcard receipt. The postcard acknowledged receipt of 6 drawing sheets in the United States Patent and Trademark Office (USPTO) on October 17, 2007.

Upon review of the record, the 6 sheets of drawings, deposited on October 17, 2007, have not been located among the application papers. Nevertheless, the evidence is convincing that the application papers deposited on October 17, 2007, included 6 drawing sheets, which were subsequently misplaced in the USPTO. Therefore, the application including the 6 drawing sheets, was complete on filing and will be granted a filing date of October 17, 2007.

Accordingly, the petition is **granted**. The Notice of Incomplete was sent in error and is hereby withdrawn.

This matter is being referred to the Office of Initial Patent Examination for processing of the **above-identified application with a filing date of October 17, 2007**, using the 6 sheets of drawings submitted with the present petition on December 3, 2007.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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.
11/974,937	10/15/2007	Shigeru Hagiwara	450100-06038	6910

7590 07/01/2009
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

EXAMINER
YE, LIN

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
07/01/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Repln. Ref: 07/01/2009 BPOWELL 0011244200
DA#:500320 Name/Number:11974937
FC: 9234 $720.00 CR

Adjustment date: 07/01/2009 BPOWELL
10/18/2007 MLE333 00000064 11974937
02 FC:1111 -510.00 OP
04 FC:1201 -210.00 OP

FORM PET651G (Rev. 08/07)

Reqln. Ref: 07/01/2009 BPOWELL 0011244200
DA#:500328 Name/Number:11974937
FC: 9204 $720.00 CR

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The BOC Group, Inc.
575 MOUNTAIN AVENUE
MURRAY HILL NJ 07974-2082

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MAY 03 2010

OFFICE OF PETITIONS

In re Application of :
McKeigue, et al. :
Application No. 11/974,953 : ON PETITION
Filed: October 17, 2007 :
Attorney Docket No. M07A219

This is a decision on the petition under 37 CFR 1.137(a), filed March 9, 2010, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed August 19, 2009, which set a shortened statutory period for reply of three-months (3) month from its mailing date. No response was received within the allowable period, and the application became abandoned on November 20, 2009. A Notice of Abandonment was mailed on March 3, 2010.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the final Office action was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner is required to provide a master docket for the firm that shows all replies docketed for a date one month from the mail date of the Notice of Non-Compliant Amendment. As indicated above, if a master docket does not exist, the renewed petition should so state and reference the docket record for the subject application.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding 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

LAUSON & TARVER LLP
880 APOLLO STREET
SUITE 301
EL SEGUNDO CA 90245

In re Application of :
Ilan Z. Golan et al. :
Patent No. 7,559,339 : Decision on Petition
Issue Date : July 14, 2009 :
Application No. 11/974,955 :
Filed: October 17, 2007
Attorney Docket No. 07-16726

This is in response to the Petition To Correct Spelling of the Inventor's Name in PTO Database, filed January 20, 2010.

The petition is **dismissed** as being moot.

Petitioner requests that the spelling of inventor Ilan Golan's name be corrected as petitioner is under the impression this correction is not reflected in the PTO database.

Petitioner filed a request to correct the misspelling of inventor Golan's first name from Lian to Ilan on May 14, 2009. This correction was made and a new filing receipt mailed May 15, 2009 reflecting the correction in spelling. The patent issued on July 14, 2009 with the incorrect spelling. A certificate of correction was filed August 3, 2009 and was granted on October 6, 2009.

The USPTO image and text files show the corrected spelling of inventor Golan's first name as Ilan. This correction is shown on the certificate of correction which is a reprint of the front page with the correct spelling of the first name. This corrected first page appears at the end of the patent as a certificate of correction. Therefore, since the relief requested by the petition has already been done, there is no need for the petition and it is dismissed as moot.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
S. Charles BENNETT, III	:	
Application No. 11/974,956	:	DECISION GRANTING
Filed: October 17, 2007	:	PETITION
Attorney Docket No. 8017P001	:	

This is a decision on the petition, filed May 4, 2009, requesting that the above-identified application be accorded a filing date of October 16, 2007, rather than the presently accorded date of October 17, 2007. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on October 16, 2007 In support, the petition is accompanied by a copy of Express Mail receipt No. EV95 3691007US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of October 16, 2007.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on October 16, 2007.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for correction of the filing date to **October 16, 2007,** and for issuance of a corrected filing receipt.

Telephone inquiries relating to this decision should be directed Diane Goodwyn at (571) 272-6735.

Telephone inquiries related to the Office of Data Management processing should be directed to (571) 272-4000.

Thurman K. Page
Petitions Examiner
Office of Petitions

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David M. Driscoll, Esq.
1201 Canton Avenue
Milton MA 02186

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OFFICE OF PETITIONS

In re Application of :
Butler et al. :
Application No. 11/974976 : ON PETITION
Filing or 371(c) Date: 10/17/2007 :
Pat. Num./Pub. Num: 7453186 :
Issue Date: 11/18/2008 :
Title of Invention: CANTILEVER :
DRIVEN TRANSDUCTION APPARATUS :

This is a decision on the "Petition to Expunge Under 37 CFR 1.59(b), filed May 14, 2008.

The petition is **dismissed as moot**.

Office records reveal that the application matured into U.S. Patent No. 7453186 on October 11, 2008, prior to a Decision on the petition, and included the information requested to be expunged. Because the application has issued as a patent, the petition is rendered moot.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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JUN 16 2010

OFFICE OF PETITIONS

IMPERIUM PATENT WORKS
P.O. BOX 607
Pleasanton CA 94566

In re Application of	:	
Robert O. Conn	:	
Application No. 11/975,011	:	DECISION ON PETITION
Filed: October 16, 2007	:	
Attorney Docket No. SIX-005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before March 1, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 1, 2009. Accordingly, the date of abandonment of this application is March 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data of Management for processing into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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HAND HELD PRODUCTS, INC.
700 VISIONS DRIVE
P.O. BOX 208
SKANEATELES FALLS NY 13153-0208

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Susewitt et al.	:	
Application No. 11/975024	:	ON PETITION
Filing or 371(c) Date: 10/17/2007	:	
Attorney Docket Number:	:	
2007001	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137, filed July 3, 2008.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers ("Notice"), mailed November 15, 2007. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on January 16, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply to the Notice; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The Power of Attorney filed with the petition has NOT been entered because there is no evidence that the person signing the Power of Attorney is authorized to act on behalf of the assignee. 37 CFR 3.73, Establishing right of assignee to take action, states in relevant part:

> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.
> (b) (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee

may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either
(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office.
For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.
(c) For patent matters only:
(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.
(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

Further to this, the MPEP 324 states:

V. PARTY WHO MUST SIGN
The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):
(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager " or "Director " is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly

set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.

Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

Before the POA may be entered, evidence of the authority of the person signing the POA is required. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise properly 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 processing of the reply, and for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: THOMAS R. FITZGERALD
2000 HSBC PLAZA
ROCHESTER, NY 14604

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

ALIX YALE & RISTAS LLP
750 MAIN STREET, SUITE 1400
HARTFORD CT 06103

COPY MAILED

NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
FROMSON, Howard A. :
Application No. 11/975,074 :
Filed: October 16, 2007 :
Attorney Docket No. **FRO/214/US** :

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 October 16, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor Howard A. Fromson, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination at 571-272-4000.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

COPY MAILED

MAR 14 2008

OFFICE OF PETITIONS

In re Application of :
ANDERSON, Jacob R. S. :
Application No. 11/975,087 : DECISION ON PETITION
Filed: October 17, 2007 : TO WITHDRAW
Attorney Docket No. DCL-06-1415R : 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 T. Daniel Chrisenbury 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 first named inventor Jacob R. S. Anderson at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MR. JACOB R. S. ANDERSON**
DRACCO COMPANY LIMITED
UNIT 1201-05
12/F, STELUX HOUSE
NO. 698 PRINCE EDWARD ROAD EAST
SAN PO KONG, KOWLOON
HONG KONG

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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K & L GATES LLP
3580 CARMEL MOUNTAIN ROAD
SUITE 200
SAN DIEGO, CA. 92130

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Aladar A. SZALAY et al :
Application No. 11/975,088 : ON PETITION
Filed: October 16, 2007 :
Attorney Docket No. 3800002.00077 / :

This is a decision on the petition filed under 37 CFR 1.182, filed July 22, 2009, 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. ALADAR A. SZALAY
2. YOUNG A. YU
3. NANHAI CHEN
4. QIAN ZHANG

This application is being forwarded to Technology Center 1600, Art Unit 1631 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-0602.

/Thurman K Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosed: Corrected Filing Receiptt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/975,088	10/16/2007	1632	1725	3800002.00077 / 4815	45	1

CONFIRMATION NO. 6747

77202
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

REPLACEMENT FILING RECEIPT

Date Mailed: 03/29/2010

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)

Aladar A. Szalay, Highland, CA;
Yong A. Yu, San Diego, CA;
Nanhai Chen, San Diego, CA;
Qian Zhang, San Diego, CA;

Power of Attorney:
Stephanie Seidman--33779
Frank Miskiel--53332
Karen Potter--57254

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/852,390 10/16/2006
and claims benefit of 60/933,050 06/04/2007
and claims benefit of 60/950,587 07/18/2007
and claims benefit of 60/994,794 09/21/2007

Foreign Applications

If Required, Foreign Filing License Granted: 09/05/2008
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/975,088**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****

Title

Methods for attenuating virus strains for diagnostic and therapeutic uses

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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K & L GATES LLP
3580 CARMEL MOUNTAIN ROAD
SUITE 200
SAN DIEGO, CA. 92130

MAILED

MAR 30 2010

OFFICE OF PETITIONS

In re Application of :
Aladar A. SZALAY et al :
Application No. 11/975,090 : ON PETITION
Filed: October 16, 2007 :
Attorney Docket No. 3800002.00079 / 4816 :

This is a decision on the petition filed under 37 CFR 1.182, filed July 22, 2009, 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. ALADAR A. SZALAY
2. ALEXA FRENTZ
3. YONG A. YU
4. NANHAI CHEN
5. QIAN ZHANG

This application is being forwarded to Technology Center 1600, Art Unit 1648 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosed: 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
11/975,090	10/16/2007	1648	3000	3800002.00079 / 4816	75	8

CONFIRMATION NO. 6730

CORRECTED FILING RECEIPT

77202
K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego, CA 92130

Date Mailed: 03/30/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Aladar A. Szalay, Highland, CA;
Alexa Frentzen, San Diego, CA;
Yong A. Yu, San Diego, CA;
Nanhai Chen, San Diego, CA;
Qian Zhang, San Diego, CA;

Power of Attorney:
Stephanie Seidman--33779
Frank Miskiel--53332
Karen Potter--57254

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/852,390 10/16/2006
and claims benefit of 60/933,050 06/04/2007
and claims benefit of 60/950,587 07/18/2007
and claims benefit of 60/994,794 09/21/2007

Foreign Applications

If Required, Foreign Filing License Granted: 09/08/2008
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/975,090**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

** SMALL ENTITY **

Title

Modified vaccinia virus strains for use in diagnostic and therapeutic methods

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAR 15 2010

OFFICE OF PETITIONS

LAW OFFICE OF GERALD D. HAYNES
2 NORTH OAKDALE AVENUE
MEDFORD OR 97501

In re Application of :
Les E. Pease :
Application No. 11/975,093 : DECISION ON PETITION
Filed: October 16, 2007 : TO WITHDRAW
Attorney Docket No. 737.01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 6, 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 Gerald D. Haynes, sole attorney of record. Gerald D. Haynes has 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: Les E. Pease
P.O. Box 631
O'Brian, OR 97534

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
11/975,093	10/16/2007	Les E. Pease	737.01

CONFIRMATION NO. 6756

66532
LAW OFFICE OF GERALD D. HAYNES
2 NORTH OAKDALE AVENUE
MEDFORD, OR 97501

POWER OF ATTORNEY NOTICE

OC000000040594297

Date Mailed: 03/15/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/06/2010.

- 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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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of :
Alexander Stuart, et al. :
Application No. 11/975,115 : DECISION ON PETITION
Filed: October 17, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. D-464 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 10, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement signed by applicant Alexander Stuart. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EUGENE H. EICKHOLT
1119 CAROLINE STREET
FREDERICKSBURG VA 22401

COPY MAILED
FEB 16 2010

In re Application of :
John O. Brush :
Application No. 11/975,118 : DECISION ON PETITION
Filed: October 18, 2007 : TO WITHDRAW
Attorney Docket No. **Brush 2** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 25, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08). No change of address was provided.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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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ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP
806 SW BROADWAY
SUITE 600
PORTLAND, OR 97205-3335

Mail Date: 04/21/2010

Applicant	: Yoshimoto Matsuda	: DECISION ON REQUEST FOR
Patent Number	: 7650862	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/975,132	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **62** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DELPHINE M. JAMES
2656 SOUTH LOOP WEST #170
HOUSTON TX 77054

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DEC 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Bobby Bailiff, et al. :
Application No. 11/975,156 : DECISION ON PETITION
Filed: October 17, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 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 **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 practitioner is in possession of applicant Bobby Bailiff age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being referred back to the Office of Patent Application Papers for pre-examination processing. This application will be accorded "special" once pre-examination processing is complete.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/975,160	10/17/2007	Yuichiro Takahashi	69477(71719)	7888

7590 07/10/2009

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

EXAMINER	

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
07/10/2009	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: 07/13/2009 NFARMER
10/19/2007 HLE333 00000065 041105 11975160
02 FC:1111 510.00 CR

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COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of :
Ben-David, et al. :
Application No. 11/975,169 :
Filed: October 17, 2007 :
Attorney Docket No. 78572-B/JPW/BB :

DECISION GRANTING PETITION

This is a decision on the petition filed June 27, 2008, in response to the Notice of Omitted Items in Non-Provisional Application (the "Notice") mailed May 23, 2008.

The petition is **granted**.

On October 17, 2007, the above-identified application was filed. However, on May 23, 2008, the Office of Patent Application Processing mailed the Notice stating that application had been accorded a filing date of October 17, 2007, and advising applicant page 30 of the specification appeared to have been omitted. Relative to the alleged omitted item, the notice set a non-extendable period for reply two-month period for reply.

In response, on June 27, 2008, applicant filed the present petition, a copy of the specification, including page 30, and an Office date-stamped postcard receipt acknowledging receipt of 106 pages of the specification, among other items on October 17, 2007.

Upon review of the record, page 30 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited October 17, 2007, included page 30 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including pages page 30 of the specification, was complete on filing and entitled to the presently accorded filing date of October 17,2 007, with page 30 of the specification as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

The application file is being returned to the Office of Patent Application Processing for further processing with the presently accorded filing date of October 17, 2007, with page 30 of the specification included as part of the original disclosure.

Any inquiries related to 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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THE PLEVY LAW FIRM
10 RUTGERS PLACE
TRENTON, NJ 08618

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Richard Feinbloom, et al. :
Application No. 11/975,194 : DECISION ON PETITION
Filed: October 18, 2007 :
Attorney Docket No. DVI-46 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed November 9, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 corrected drawings, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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 $1115 extension of time fee submitted with the petition on August 18, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to the Office of Patent Application Processing for further processing of the reply received August 18, 2008.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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PATENT DEPARTMENT
TAYLOR, PORTER, BROOKS & PHILLIPS, L.L.P
P.O. BOX 2471
BATON ROUGE, LA 70821-2471

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MAR 04 2009

OFFICE OF PETITIONS

In re Application of LaBonte et al. :
Application No. 11/975,203 : Decision on Petition
Filing Date: October 18, 2007 :
Attorney Docket No. LaBonte 06A36 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 6, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on Tuesday, September 9, 2008. A Notice of Abandonment was mailed on September 22, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has submitted the required petition fee of $770. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent 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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BORSON LAW GROUP, PC
1078 CAROL LANE, #200
LAFAYETTE, CA 94549

Mail Date: 04/21/2010

Applicant	: Michael Powell	: DECISION ON REQUEST FOR
Patent Number	: 7648704	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/975,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **326** 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.:20090727

DATE : June 05, 2009

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 7514841

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:

/Thomas M. Dougherty/
Primary Examiner, Art Unit 2837

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NEW YORK NY 10036

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of :
Ben-David et al. :
Application No. 11/975,241 : DECISION ON PETITION
Filed: October 17, 2007 :
Attorney Docket No. 78572-C/JPW/BB :

This is a decision on the petition filed December 31, 2007, requesting that the application be accorded a filing date of October 17, 2007, with Figure 3 as part of the original disclosure.

On October 17, 2007, applicant filed the above-identified application. However, on December 11, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of October 17, 2007, and advising applicant that Figure 3 appeared to have been omitted. Additionally, the Notice required an executed oath or declaration and a $65.00 surcharge for its late filing.

On December 31, 2007, applicant submitted, *inter alia*, the present petition and 8 sheets of drawings (including Figure 3). Additionally, applicant submitted a copy of applicant's returned, date-stamped postcard receipt acknowledging receipt of 8 pages of drawings in the USPTO on October 17, 2007.

Upon review of the record, Figure 3, deposited on October 17, 2007, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 17, 2007, included Figure 3, which was subsequently misplaced in the USPTO. Therefore, the application, including Figure 3, was complete on filing and will be granted a filing date of October 17, 2007. Accordingly, the petition is granted. The Notice of Omitted Item(s) was sent in error and is hereby withdrawn. No petition fee is necessary.

The application is being referred to Office of Patent Application Processing **to accord the above-identified application a filing date of October 17, 2007,** using the 7 sheets of drawings submitted on that date, and Figure 3 submitted with the petition on December 31, 2007, as part of the original disclosure.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUN 23 2009

OFFICE OF PETITIONS

BALSER & GRELL IP LAW LLC
4307 JONES BRIDGE CIRCLE
NORCROSS GA 30092

In re Application of
Harry Wayne Presley et al
Application No. 11/975,242
Filed: October 18, 2007
Attorney Docket No. 10005-RA2

DECISION DISMISSING PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed December 30, 2008, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable. Petitioner should provide the relationship of Application No. 11/811,928 to the present application.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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NORCROSS, GA 30092

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SEP 29 2009

OFFICE OF PETITIONS

In re Application of
Harry Wayne Presley et al
Application No. 11/975,242
Filed: November 18, 2007
Attorney Docket No. 10005-RA2

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All 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 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 2874 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/975,242	10/18/2007	2874	1960	10005-RA2	25	5

CONFIRMATION NO. 7406

86325
Balser & Grell IP Law LLC
4307 Jones Bridge Circle
Norcross, GA 30092

CORRECTED FILING RECEIPT

OC00000037986409

Date Mailed: 09/28/2009

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)

Harry Wayne Presley, Suwanee, GA;
Michael L. Nagy, Lawrenceville, GA;

Assignment For Published Patent Application

Olympus Microsystems America, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 86325

Domestic Priority data as claimed by applicant

This application is a CIP of 11/811,928 06/12/2007
which claims benefit of 60/857,441 11/07/2006

Foreign Applications

If Required, Foreign Filing License Granted: 11/09/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/975,242**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Beam steering element and associated methods for manifold fiberoptic switches

Preliminary Class

385

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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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Stephen Lawrence Merrett	: DECISION ON REQUEST FOR
Patent Number	: 7604003	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/975,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/27/09

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction for Appl. No.: 11975277 Patent No.: 7472759 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Director's/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

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: _____

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER 3641

PAGE 1/1 * RCVD AT 4/7/2009 8:03:18 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/20 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-34

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BRUCE L. ADAMS, ESQ.
SUITE 1231
17 BATTERY PLACE
NEW YORK NY 10004

MAILED

JUN 03 2010

OFFICE OF PETITIONS

In re Application of
Yamagiwa, et al.
Application No. 11/975,282
Filed: October 18, 2007
Attorney Docket No. S011-6101

DECISION ON PETITION

This is a decision on the petition, filed April 23, 2010 (certificate of mailing date April 21, 2010), under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed August 10, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 22, 2010.

Petitioners assert that the Office action dated August 10, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the February 22, 2010 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2121 for re-mailing the Office action of August 10, 2009. The period for reply will run from the mailing date of the Office action.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FLASTER/GREENBERG P.C.
8 PENN CENTER
1628 JOHN F. KENNEDY BLVD.
15TH FLOOR
PHILADELPHIA, PA 19103

COPY MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Brian LOTTIG	:	
Application No. 11/975,300	:	DECISION ON PETITION
Filed: October 18, 2007	:	TO WITHDRAW
Attorney Docket No. L0926-2US	:	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 1, 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 Lynda L. Calderone on behalf of the attorneys of record associated with Customer No. 54380.

The attorneys of record associated with Customer No. 54380 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 inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BRIAN LOTTIG
23310 BELMONT DR.,
WESTLAKE, OH 44145

cc: NATASHA MOULTON-LEVY
C/O HEATHER FOLEY, ESQ.
VENABLE LLP,
750 EAST PRATT STREET
SUITE 900
BALTIMORE, MD 21202

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/975,300	10/18/2007	Brian Lottig	L0926-2US

CONFIRMATION NO. 1545

POWER OF ATTORNEY NOTICE

54380
FLASTER/GREENBERG P.C.
8 PENN CENTER
1628 JOHN F. KENNEDY BLVD.
15TH FLOOR
PHILADELPHIA, PA 19103

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/01/2009.

- 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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: Daniel L. Mattice	: DECISION ON REQUEST FOR
Patent Number	: 7621735	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/975,318	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **79** 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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DALE JONES
3520 GREYSTONE RIDGE CT, SE
RIO RANCHO NM 87124

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
JONES, Wilbur Dale :
Application No. 11/975,341 : DECISION ON PETITION
Filed: October 19, 2007 : TO MAKE SPECIAL UNDER
Attorney Docket No. : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 24, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Wilbur Dale Jones attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3657 for action on the merits commensurate with this decision.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

In re Application of :
Mateychuk and Lu :
Application No. 11/975,365 : DECISION REFUSING STATUS
Filed: October 18, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. DP-313853 :
For: DUAL MODED STACKED MICROSTRIP PATCH ATTENA

This is a decision on the petition under 37 CFR 1.47(a), filed January 25, 2008 (certificate of mailing dated January 23, 2008), which be treated as a petition under 37 CFR 1.47(b).

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on October 18, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on November 23, 2007, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on January 25, 2008.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks items (2), (5), and (6) as set forth above.

As to item (2), the declaration filed is not executed by an authorized party. Section 409.03(b) of the *Manual of Patent Examining Procedure* (AMPEP@) states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent registered to practice before the US Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorneys or agents authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

The declaration filed is not executed by anyone. A signature of an authorized corporate official, attorney or agent, is necessary in order for the declaration to be considered valid. Petitioner is also cautioned to adhere to the guidance provided in Section 409.03(b) relative to establishing that person signing the declaration is, in fact, authorized to make the representations on behalf of the company.

Further as to item (2), if the 37 CFR 1.47(b) is an assignee, the declaration cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the Manual of Patent Examining Procedure cites 37 CFR 3.71(c) which states that, "[a]n assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

As to item (5), petitioner has not satisfactorily demonstrated that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with the application on behalf of the non-signing inventors. The *Manual of Patent Examining Procedure*, Section 409.03(f) provides, in pertinent part, that:

> [w]hen an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date of the application is deposited in the Patent and Trademark Office,
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the same person having firsthand knowledge of the same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved.

Although petitioner intimates that the inventors were required to assign their interests in the application to the 37 CFR 1.47(b) applicant, no documentary evidence of such assignment or written agreement of his obligation to assign the application was found among the petition papers. Any renewed petition must be accompanied by documentary proof of the 37 CFR 1.47(b) applicant's proprietary interest .

As to item (6), petitioner has not established that a filing date is necessary to preserve the rights of the party or prevent irreparable harm. This showing may be made by a statement to that effect and should accompany any renewed petition filed. *See MPEP* 409.03(g).

Deposit account 50-0831will be charged $200.00 for the instant petition fee.

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 regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/96—"Statement Under 37 CFR 3.73(b)"

PTO/SB/96 (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is_____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

COPY MAILED

AUG 0 1 2008

In re Application of :
Mateychuk and Lu :
Application No. 11/975,365 : DECISION REFUSING STATUS
Filed: October 18, 2007 : UNDER 37 CFR 1.47(b)
Attorney Docket No. DP-313853 :
For: DUAL MODED STACKED MICROSTRIP PATCH ATTENA

This is a decision on the renewed petition under 37 CFR 1.47(b), filed June 30, 2008.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on October 18, 2007, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on November 23, 2007, 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(b) was filed on January 25, 2008, and dismissed by a decision mailed February 28, 2008. The instant renewed petition was filed June 30, 2008, with a request for extension of time within the second month.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2). An executed declaration under 37 CFR 1.63 did not accompany the renewed petition. Section 409.03(b) of the *Manual of Patent Examining Procedure* (MPEP) states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent registered to practice before the US Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorneys or agents authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

The declaration filed is not executed by anyone. A signature of an authorized corporate official, attorney or agent, is necessary in order for the declaration to be considered valid. Petitioner is also cautioned to adhere to the guidance provided in Section 409.03(b) relative to establishing that person signing the declaration is, in fact, authorized to make the representations on behalf of the company.

The certificate under 37 CFR 3.73(b) filed June 30, 2008, is noted.

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 regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John Z. Lu
2335 Acorn Drive
Kokomo, Indiana 46902

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OCT 10 2008

OFFICE OF PETITIONS

In re Application of :
Mateychuk and Lu :
Application No. 11/975,365 : LETTER
Filed: October 18, 2007 :
Attorney Docket No. DP-313853 :
For: DUAL MODED STACKED MICROSTRIP PATCH ATTENA

Dear Inventor Lu:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a 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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Duane N. Mateychuk
15444 Heath Circle
Westfield, Indiana 46074

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Mateychuk and Lu :
Application No. 11/975,365 : LETTER
Filed: October 18, 2007 :
Attorney Docket No. DP-313853 :
For: DUAL MODED STACKED MICROSTRIP PATCH ATTENA

Dear Inventor Mateychuk:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/26/2010

Applicant	: Min-Li Tseng	: DECISION ON REQUEST FOR
Patent Number	: 7644895	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/975,376	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARY L. BUSH
ANDREWS KURTH LLP
SUITE 4200
600 TRAVIS
HOUSTON TX 77002

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Boatman, et al. :
Application No. 11/975,405 : DECISION ON PETITION
Filed: October 19, 2007 :
Attorney Docket No. SOF158D1/177502 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 24, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 24, 2008. Accordingly, the date of abandonment of this application is February 25, 2009. A Notice of Abandonment was mailed on March 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of :
Gerald J. SANDERS, et al :
Application No. 11/975,409 :
Filed: October 19, 2007 :
Attorney Docket No. 36908-501-UTIL :

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 12, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Boris A. Matvenko on behalf of the attorneys of record associated with Customer No. 35437.

The attorneys of record associated with Customer No. 35437 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address for future communications from the Office has been changed and the new correspondence address is indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc : GERALD J. SANDERS
FEMSUITE LLC,
19991 7TH STREET EAST
SONOMA CA 95476

cc: BORIS A. MATVENKO
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO PC
THE CHRYSLER CENTER
666 THIRD AVENUE, 24TH FLOOR
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/975,409	10/19/2007	Gerald J. Sanders	36908-501-UTIL

CONFIRMATION NO. 8291

POWER OF ATTORNEY NOTICE

35437
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000042423943

Date Mailed: 07/06/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/12/2010.

- 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.

/dcgoodwyn/

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.
11/975,418	10/19/2007	Frank S. Principe	PR0123USNA	8261

23906 7590 04/22/2009

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER	
KELLY, CYNTHIA HARRIS	
ART UNIT	**PAPER NUMBER**
1795	

NOTIFICATION DATE	DELIVERY MODE
04/22/2009	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):

PTO-Legal.PRC@usa.dupont.com

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

CHK
Paper No.

In re Application of FRANK S. PRINCIPE ET AL.
Serial No.: 11/975418
Filed: October 19, 2007
For: METHOD OF SEPARATING AN EXPOSED THERMAL TRANSFER ASSEMBLAGE

DECISION ON PETITION
UNDER *37 CFR 1.48(a)*

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed February 27, 2007 to correct inventorship under 37 CFR 1.48(a) by adding the names of IAN MICHEAL GARBEN and PAUL HOLT.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

/Cynthia H. Kelly/
Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

THOMAS MAGEE
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/975,432	10/19/2007	Martin Engesser	1886/78457	8266

23432 7590 12/02/2009

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

EXAMINER	
PHAM, LEDA T	

ART UNIT	PAPER NUMBER
2834	

MAIL DATE	DELIVERY MODE
12/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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P.O. Box 1450
Alexandria, VA 22313-1450
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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of
ENGESSER et al.
Application No.: 11/ 975,432
Filed: 19 October 2007
Attorney Docket No.: 1886/78457
For: SPINDLE MOTOR HAVING RADIAL AND AXIAL BEARING SYSTEMS

: 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 22 July 2009, to make the above-identified application special.

The request and petition are **DISMISSED**.

Discussion

A grantable request to participate in the PPH pilot program and petition to make special require:

1. The U.S. application 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 DPMA, 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 DPMA, 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 DPMA, or

ii. validly claims priority to a PCT application that contains no priority claims, or
iii. contains no priority claim;

2. Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the DPMA application(s), and
   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 DPMA 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 all office actions from each of the DPMA application(s) containing the allowable/patentable claim(s), and
      ii. a copy of any office action which is relevant to patentability from the DPMA application(s) issued after grant of the request to participate in the PPH pilot program, and
   b. An English language translation of the DPMA office action from (5)(a)(i)-(ii) above, and
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the DPMA examiner in the DPMA office action (unless already submitted in this application), and
   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).

Conditions (1)-(4), and (6)-(7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (5).

Regarding the requirement of condition (5), Petitioner has failed to provide a copy of the office action from the DPMA application.

A proper response in this case must include:

(a) a copy of the office action from the DPMA application.

Applicant is given **ONE** opportunity within a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.REQUEST. Any preliminary amendments and IDS submitted with the PPH documents must be separately indexed as a preliminary amendment and IDS, respectively.

Telephone inquiries concerning this decision should be directed to Lee W. Young at 571-272-4549.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Lee W. Young
TQAS Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/975,432	10/19/2007	Martin Engesser	1886/78457	8266

23432 7590 02/23/2010

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

EXAMINER	
PHAM, LEDA T	
ART UNIT	**PAPER NUMBER**
2834	

MAIL DATE	DELIVERY MODE
02/23/2010	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.

Best Available Copy

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of	:	**DECISION ON REQUEST TO**
Martin Engesser, *et. al.*	:	**PARTICIPATE IN PATENT**
Application No. 11/975,432	:	**PROSECUTION HIGHWAY**
Filed: October 19, 2007	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 1886/78457	:	**TO MAKE SPECIAL UNDER**
For: SPINDLE MOTOR HAVING RADIAL AND AXIAL BEARING SYSTEMS	:	**37 CFR 1.102(d)**

A decision dismissing the petition to make the above-identified application special for participation in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(d), was mailed on December 2, 2009. The decision set a non-extendable time period of ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date to corrected deficiency/deficiencies in the petition.

As of February 09, 2010, neither a reply nor a renewed petition has been received. Accordingly, the application is no longer eligible for the Patent Prosecution Highway (PPH) 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 participation in the Patent Prosecution Highway (PPH) pilot program in this application will not be entertained.

~~Response must be faxed to Michael Day at 571-273-1568.~~

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://uspto.gov/ebc/index.html.

Michael Day
TQAS
Technology Center 2800- Semiconductors,
Electrical & Optical Systems & Components

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P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT D. SHEDD
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON NJ 08543-5312

In re Application of	:	
Houdaille, et al.	:	
Application No. 11/975,512	:	DECISION
Filed: 19 October, 2007	:	
Attorney Docket No. PF060142	:	

This is a decision on the petition filed on 21 August, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice of Missing Parts (oath/declaration, surcharge) mailed on 23 November, 2007, with reply due absent extension of time on or before 23 January, 2008.

The instant application went abandoned by operation of law after midnight 23 January, 2008.

The Office mailed a Notice of Abandonment on 1 August, 2008.

On 21 August, 2008, Petitioner filed a petition with fee pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, a reply in the form of an executed oath/declaration and surcharge, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Office of Patent Application Processing (OPAP) to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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MAR 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Mitchell J. Silverman :
Application No. 11975,527 :
Filed: October 19, 2007 :
Attorney Docket No. 15-07-002 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 8, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 20, 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 petition is found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such

foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 23, 2009 was mailed on December 11, 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 the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2176 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MATTHEW S. ANDERSON
DOCKET CLERK, P.O. DRAWER 800889
DALLAS, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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KAPLAN WARD & PATEL LLC
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA GA 30339

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of
Terry Kinskey et al.
Application No. 11/975,557
Filed: October 19, 2007
Attorney Docket No. 31290-RA31

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 6, 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 Barry E. Kaplan on behalf of all attorneys of record who are associated with Customer No. 30184.

All attorneys/agents listed in the Customer No. 30184 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 Terry Kinskey at the address indicated in the request.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Terry Kinskey
c/o Union Rich USA, LLC
1377 Clint Moore Road, Suite 300
City Boca Raton, FL 33487

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
11/975,557	10/19/2007	Terry Kinskey	31290-RA31

CONFIRMATION NO. 8330

POWER OF ATTORNEY NOTICE

30184
KAPLAN WARD & PATEL LLC
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA, GA 30339

OC000000036444994

Date Mailed: 06/12/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/06/2009.

- 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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FITZPATRICK CELLA (MARVELL)
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

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MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Kan Li	:	
Application No. 11/975,568	:	DECISION ON PETITION
Filed: October 19, 2007	:	TO WITHDRAW
Attorney Docket No. MP1410-166179	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Fitzpatrick Cella (Marvell), has been revoked by the assignee of the patent application on November 1, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to 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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G4
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AUG 20 2008

In re Application of	:	
Nelson et al.	:	
Application No. 11/975,579	:	ON PETITION
Filed: October 18, 2007	:	
Attorney Docket No. SVL920020024US2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 22, 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 a Substitute Specification and an Abstract, (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.

Liana Walsh
Petitions Examiner
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of :
MYERS, et al. :
Application No. 11/975,584 :
Filed: October 19, 2007 :
Attorney Docket No. **1199-74** :
:

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 October 19, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor Samuel D. Hilbert, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Office of Initial Patent Examination at 571-272-4000.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Monica A. Graves
Petitions Examiner
Office of Petitions

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PO BOX 55630
PHOENIX AZ 85078

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FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Roman et al. :
Application No. 11/975588 :
Filing or 371(c) Date: 10/18/2007 :
Attorney Docket Number: :
1152-P-8A :

~~In re Application of~~ :
~~Roman et al.~~ :
~~Application No. 12/319288~~ :
~~Filing or 371(c) Date: 10/18/2007~~ :
Attorney Docket Number: : DECISION
1152-P-8 : ON PETITION

This is a decision on the "Petition Under §1. 181 to Separate Patent Application into two Separate Applications," filed November 14, 2008, requesting above-identified application, attorney docket number 1152-P-8, be accorded a filing date of October 18, 2008. The petition is treated under 37 CFR 1.181 for application no. 11/975588, and the petition is properly treated under 37 CFR 1.53 for application no. 12/319288.

The petition under 37 CFR 1.181 is granted.

The petition under 37 CFR 1.53 is granted.

On October 18, 2008, Applicant filed two applications, attorney docket numbers 1152-P-8, and 1152-P-8A. Both applications were filed using one Express Mail envelope; Express Mail Mailing Label number EQ759 378 613US. Both applications were processed under application serial number 11/975588, using attorney docket numbers 1152-P-8A, and accorded the filing date of October 18, 2008.

Applicant files present petition and requests that the Office separate and accord a serial number and filing date of October 18, 2008, to the application with attorney docket numbers 1152-P-8. In support of this request, Applicant files a copy of his return-receipt postcard wherein this Office acknowledged receipt of both application 1152-P-8, and 1152-P-8A.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

No petition fee has been charged and none is due.

The application with attorney docket number 1152-P-8 has been accorded application serial number 12/319,288.

Application number 12/319,288 is being forwarded to the Office of Patent Application Processing, Customer Corrections,

1) to accord the application a filing date of October 18, 2008, and for processing of the application in the normal course of business.

1a) it is noted that no fees were submitted with the filing of application number 12/319,288

2) for processing of both applications in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571-272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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SCOTT DAVID COMPTON (THE COMPTON LAW FIRM, P.C.)
2386 S. DAIRY ASHFORD ST. #593
HOUSTON, TX 77077

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of :
William P. Bishop :
Application No. 11/975,599 : DECISION ON PETITION
Filed: October 20, 2007 : TO WITHDRAW
Attorney Docket No. 102007 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed March 8, 2010.

The request is **APPROVED**.

A review of the file record indicates that Christopher J. Whewell: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Christopher J. Whewell has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Christopher J. Whewell
6020 Tonkowa Trail
Georgetown, TX 78628

UNITED STATES PATENT AND TRADEMARK OFFICE

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CALIF KIP TERVO
6387 CAMINITO LAZARO
SAN DIEGO CA 92111

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Young Kook Cho	:	DECISION ON PETITION
Application No. 11/975,634	:	TO WITHDRAW
Filed: October 18, 2007	:	FROM RECORD
Attorney Docket No. CHOH-4	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 12, 2010 and April 13, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Calif Tervo on behalf of all attorneys of record associated with Customer Number 31560. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. Edward Young Cho, is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed February 19, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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CALIF KIP TERVO
6387 CAMINITO LAZARO
SAN DIEGO CA 92111

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Young Kook Cho	:	DECISION ON PETITION
Application No. 11/975,634	:	TO WITHDRAW
Filed: October 18, 2007	:	FROM RECORD
Attorney Docket No. CHOH-4	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 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 Calif Tervo on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed February 19, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Young Kook Cho
3803 Swallow View NE
Marietta, GA 30066

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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.
11/975,636	10/18/2007	Daniel Albert Scarpine	103246-0006	9184

35940 7590 06/06/2008

ATER WYNNE LLP
222 SW COLUMBIA, SUITE 1800
PORTLAND, OR 97201-6618

EXAMINER	
SAVAGE, MATTHEW O	
ART UNIT	**PAPER NUMBER**
1797	

MAIL DATE	DELIVERY MODE
06/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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CST

6-6-08

In re application of
Daniel Albert Scarpine et al
Serial No. 11/975,636
Filed: October 18, 2007
For: PASSIVE STORMWATER MANAGEMENT APPARATUS AND SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on March 12, 2008 to make the above-identified application special because of enhancement of environmental quality.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection V (environmental quality) was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) on or after August 25, 2006;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application contains greater than twenty total claims (25 claims). Furthermore, the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS).

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

/Christine Tierney/

_____

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

02307E-098020 US ASP

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Charles S. Zuker, Jon E. :
Adler, Mark Hoon, Nick Ryba : DECISION GRANTING PETITION
and Ken Mueller : UNDER 37 CFR 1.47(a)
Application No. 10/364,861 :
Filed: February 10, 2003
Title: SF, A NOVEL FAMILY OF
TASTE RECEPTORS

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 29, 2003.

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 above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT
02307E-098020US

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

On 9-25-03

TOWNSEND and TOWNSEND and CREW LLP

By: Karen Karlin

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: Not yet assigned
Zuker et al.	Art Unit: Not yet assigned
Application No.: 10/364,861	PETITION UNDER 37 CFR §1.47(a)
Filed: February 10, 2003	
For: T2R, A NOVEL FAMILY OF TASTE RECEPTORS	

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 CFR §1.47(a), Applicants hereby petition for filing of the above-identified patent application when a joint inventor cannot be found or reached after diligent effort. Proof of the pertinent facts is submitted herein with the petition, to properly establish that joint inventor Dr. Jon E. Adler cannot be found or reached after diligent effort. Specifically, Applicants are submitting the following items:

Exhibit A: a photocopy of the letter (dated June 23, 2003) accompanying a Declaration for Application and an Assignment of Patent Application (to the Regents of

the University of California) that were sent to Dr. Adler by U.S. Postal Service First Class Mail at 12320 S.W. Malloy Way, Sherwood, OR 97140;

Exhibit B: a photocopy of a second letter (dated August 5, 2003) accompanying a Declaration for Application and an Assignment of Patent Application (to the Regents of the University of California) that were sent to Dr. Adler by U.S. Postal Service First Class Certified Mail at 12320 S.W. Malloy Way, Sherwood, OR 97140;

Exhibit C: a photocopy of a Certified Mail receipt (dated August 6, 2003), indicating the second attempt to deliver the Declaration and Assignment for Dr. Adler's signature; and

Exhibit D: a photocopy of a return postcard indicating the receipt of the certified letter of August 5, 2003.

Exhibit E: the response to the Notice to File Missing Parts of Nonprovisional Application (mailed May 2, 2003), including the Declaration and Assignment executed by Drs. Zuker, Hoon, Ryba, and Mueller.

Dr. Adler's last known address is: 12320 S.W. Malloy Way, Sherwood, OR 97140. Two unsuccessful attempts have been made by Applicant's under signed attorney to reach Dr. Adler at this address, the first time by U.S. Postal Service First Class Mail on June 23, 2003 (see Exhibit A) and the second time by U.S. Postal Service First Class Certified Mail on August 6, 2003 (see Exhibits B and C), as shown by evidence submitted.

Applicant's undersigned attorney did receive a return postcard from the post office. This postcard, however, does not bear any signature to indicate the identity of the person who received the August 5, 2003, certified letter from the post office (see Exhibit D). Furthermore, the executed Declaration and Assignment were never received.

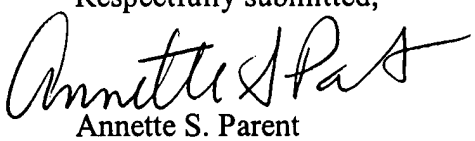
As more than three months have passed since Applicant's undersigned attorney first attempted to contact Dr. Adler at his last known address to execute a

declaration in the present application, Applicants submit that Dr. Adler cannot be found or reached after diligent effort.

The other joint inventors, Dr. Zuker, Dr. Hoon, Dr. Ryba, and Dr. Mueller, have executed the Declaration for Application (enclosed as Exhibit E). Because Dr. Adler cannot be found or reached after diligent effort, as described herein, Applicants request that the above-identified application be filed on behalf of Dr. Zuker, Dr. Hoon, Dr. Ryba, and Dr. Mueller and the nonsigning joint inventor, Dr. Adler, in accordance with 37 CFR §1.47(a).

Please charge $130.00 for filing this petition to Deposit Account 20-1430. The Commissioner is hereby authorized to charge any additional fees associated with this petition or credit any overpayment to the Deposit Account identified above.

Respectfully submitted,



Annette S. Parent
Reg. No. 42,058

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60033098 v1

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JOHN A. O'TOOLE, ESQ.
P.O. BOX 1113
MINNEAPOLIS MN 55440

MAILED

JUN 08 2010

OFFICE OF PETITIONS

In re Application of
William E. Archibald et al.
Application No. 11/975,656
Filed: October 19, 2007
Attorney Docket Number: 869.054US2

ON PETITION

This is a decision on the petition, filed April 28, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned March 24, 2010 for failure to pay the issue fee in response to the Notice of Allowance mailed on December 23, 2009. Accordingly, the Notice of Abandonment was mailed on April 8, 2010.

The issue fee in the amount of $1510, publication fee in the amount of $300 and the petition fee in the amount of $1620 have been charged to deposit account no. 07-0900 per the authorization included with the petition.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

21 MAY 2010

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HUGH MCTAVISH
MCTAVISH PATENT FIRM
429 BIRCHWOOD COURTS
BIRCHWOOD, MN 55110

In re Application of :
O'BRIEN et al :
Application No.: 11/975,668 : DECISION ON PETITION
Filing Date: October 19, 2007 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 0110-018-CON4 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 12, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference prior-filed application number 09/965,738. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing

date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP 201.06(c) and 608.04(b).

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and an amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

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
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

16 JUL 2010

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HUGH MCTAVISH
MCTAVISH PATENT FIRM
429 BIRCHWOOD COURTS
BIRCHWOOD, MN 55110

In re Application of	:	
O'BRIEN et al	:	
Application No.: 11/975,668	:	DECISION ON PETITION
Filing Date: October 19, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 0110-018-CON4	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 1, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a late claim for 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 37 CFR 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1642 for appropriate action on the amendment filed June 1, 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 nonprovisional application.

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Jack W. Wilson

Application No. 11975671

Filed: October 19,2007

Attorney Docket No. FTT-402R

:
:
: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 20-FEB-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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OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

In re Application of Stegemeier et al. :
Application No. 11/975,713 : Decision on Petition
Filing Date: October 19, 2007 :
Attorney Docket No. TH3376 (US) :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 3, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 4, 2009. A Notice of Abandonment was mailed on September 22, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to requirement (1), petitioner has submitted the required issue fee and publication fee.

As to requirement (2), petitioner has submitted the required petition fee of $1,620.

As to requirement (3), petitioner has asserted the delay from the due date of the issue fee until the filing of the petition was unintentional. 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." To the extent any

statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above.

As to requirement (4), a terminal disclaimer is unnecessary in this case.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent 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

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.
11/975,779	10/22/2007	Takashi Kasuga	075834.01091	9395

7590 08/20/2009

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
BELOUSOV, ALEXANDER	
ART UNIT	**PAPER NUMBER**
2894	
MAIL DATE	**DELIVERY MODE**
08/20/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
08/21/2009 NFARMER 0000168484

CHECK Refund Total: $510.00

Adjustment date: 08/21/2009 NFARMER
10/23/2007 SSESHE1 00000043 11975779
02 FC:1111 -510.00 OP

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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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MAY 27 2009

OFFICE OF PETITIONS

In re Application of :
PEREIRA et al. :
Application No. 11/975,810 : DECISION ON PETITION
Filed: 10/22/2007 :
Attorney Docket No. 6267.004 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

On December 12, 2007, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to reply. In the absence of a timely and proper reply to the Notice to File Missing Parts of Nonprovisional Application, the application became abandoned on February 13, 2008. A Notice of Abandonment was mailed on October 28, 2008.

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 a proper statement of unintentional delay.

This matter is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries specific 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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/975,816	10/22/2007	Hyun-Ho Yu	5000-1-1082	9360

7590 03/21/2009

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
03/21/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
03/23/2009 NFARMER 0000166584

CHECK Refund Total: $510.00

Adjustment date: 03/23/2009 NFARMER
10/23/2007 HLE333 00000032 11975816
02 FC:1111 -510.00 OP

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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

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OFFICE OF PETITIONS

In re Application of
Hyun et al.[1]
Application No. 11/975,817
Filed: 10/22/2007
Attorney Docket No. 5000-1-1062
Title: APPARATUS AND METHOD OF CONTROLLING EMITTING COLOR OF VISIBLE LIGHT ACCORDING TO A CURRENT COMMUNICATION STATE IN A VLC DEVICE

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) AS MOOT

This is in response to the petition under 37 CFR 1.47(a), filed October 22, 2007, and supplemented on May 30, 2008.

On May 30, 2008, after filing the petition, applicants submitted a declaration executed by the previously non-signing legal representative of the deceased inventor. In view of the joinder of the legal representative further consideration under 37 CFR 1.47(a) is not necessary. Accordingly, the petition is dismissed as involving a moot issue.

This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application does not need to be returned to the Office of Petitions for further consideration under 37 CFR 1.47(a).

As the petition was not before a deciding official prior to the submission of the declaration executed by the previously non-signing legal representative, the $200.00 petition fee is unnecessary and will be refunded to the Deposit Account.

This application is being referred to Technology Center AU 2612 for examination in due course.

[1] The order of the inventors will remain as set forth in the first executed declaration on October 22, 2007, absent a petition under 37 CFR 1.182 and $400.00 fee to change the order of the named inventors.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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PATENT SERVICES
915 Merchant Walk
Suite D
HUNTSVILLE, AL 35801

Mail Date: 04/21/2010

Applicant	: Frank B. Tatom	: DECISION ON REQUEST FOR
Patent Number	: 7668692	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/975,819	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **271** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/975,835	10/23/2007	Gregg A. McLeod		7255

7590 11/27/2007

GREGG A. MCLEOD
9911 E. DA PLACE
GREENWOOD VILLAGE, CO 80111

EXAMINER	
ART UNIT	PAPER NUMBER
1723	

MAIL DATE	DELIVERY MODE
11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CST

11-27-07

In re application of
Gregg A. McLeod
Serial No. 11/975,835
Filed: October 23, 2007
For: PROCESS FOR ENHANCED TOTAL ORGANIC CARBON REMOVAL WHILE MAINTAINING OPTIMUM MEMBRANE FILTER PERFORMANCE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on October 23, 2007 to make the above-identified application special under the accelerated examination program.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application, at the time of filing, was not in condition for

examination. Note, specifically, the NOTICE OF INFORMAL APPLICATION mailed on November 14, 2007, which indicates that the application was not in condition for examination at the time of filing.

MPEP 708.02(a), section VIII further states:

> The petition to make special will be dismissed if the application omits an item or includes a paper that causes the Office of Initial Patent Examination (OIPE) to mail a notice during the formality review (e.g., a notice of incomplete application, notice to file missing parts, notice to file corrected application papers, notice of omitted items, or notice of informal application). The opportunity to perfect a petition (subsection II above) does not apply to applications that are not in condition for examination on filing.

Furthermore, the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS).

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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United States Patent and Trademark Office.
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Peter G. Carroll
MEDLEN & CARROLL, LLP
Suite 350
101 Howard Street
San Francisco CA 94105

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AUG 15 2008

In re Application of:	:	
Gorfinkel et al.	:	
Application No. 11/975887	:	DECISION DISMISSING
Filing or 371(c) Date: 10/22/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
METHOD AND DEVICE FOR	:	
MANIPULATING LIQUIDS IN	:	
MIRCROFLUIDIC SYSTEMS	:	

This Decision is in response to the "Petition to Permit Joint Inventor to Make Application for Patent Under 37 C.F.R. 1.47(a)," filed June 30, 2008, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under [insert the applicable code section]"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on October 22, 2007, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on January 29, 2008, requiring *inter alia*, a properly signed oath or declaration.

The present petition

Applicant files the present petition wherein Applicant asserts that the nonsigning inventor refuses to join in the application.

Applicable Law, Rules and MPEP

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the MPEP provides:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration.

MPEP 409.03(d).

Analysis

Applicant has not presented evidence that a copy of the application papers were sent to the last known address of the non-signing inventor. Absent an express refusal to join in the application, Applicant must present a copy of the application papers to the nonsigning inventor. The MPEP further provides

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

MPEP 409.03(d).

In this instance, Applicant provides that a copy of the documents were mailed to the nonsigning inventor. Applicant must mail the application (specification, claims and drawings), to the last known address of the inventor. That address should be the last known address at which the

inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Conclusion

Applicant must present a copy of the application to the nonsigning inventor before a refusal to join in the application may be alleged.

The petition fee increased to $200.00 effective December 8, 2004. Applicant S deposit account has been charged the difference between the fee submitted with the petition, $130.00, and the fee due, $200.00, or an additional $70.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Peter G. Carroll
MEDLEN & CARROLL, LLP
Suite 350
101 Howard Street
San Francisco CA 94105

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of:	:	
Gorfinkel et al.	:	
Application No. 11/975887	:	DECISION GRANTING
Filing or 371(c) Date: 10/22/2007	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
METHOD AND DEVICE FOR MANIPULATING	:	
LIQUIDS IN MIRCROFLUIDIC SYSTEMS	:	

This Decision is in response to the Reply to Petition Decision Refusing Status Under 37 CFR § 1.47(a), filed October 15, 2008. The reply is properly treated as a request for reconsideration of petition under 37 CFR 1.47(a),, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Evgeni Kobatyanski, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Patent Application Processing for continued processing in the normal course of business.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DR. EVGENI KABOTYANSKI
20 MARK STREET
PORT JEFFERSON STATION, NY 11776-1914

COPY MAILED

NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of:
Gorfinkel et al.
Application No. 11/975887
Filing or 371(c) Date: 10/22/2007
Title of Invention:
METHOD AND DEVICE FOR MANIPULATING LIQUIDS IN MIRCROFLUIDIC SYSTEMS

LETTER

Dear Dr. Kobatyanski:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: Peter G. Carroll
MEDLEN & CARROLL, LLP
Suite 350
101 Howard Street
San Francisco CA 94105

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUSAN REIMER TOM
310 WEST 85TH STREET
NEW YORK NY 10024

COPY MAILED

JAN 21 2009

In re Application of	:	
Susan Reimer Tom	:	
Application No. 11/975,891	:	DECISION ON PETITION
Filed: October 22, 2007	:	
Attorney Docket No. SBG-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 2, 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 November 16, 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 January 17, 2008. A Notice of Abandonment was mailed July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Additional claims fee of $105.00, an Examination fee of $105.00, and surcharge fee of $65.00,; (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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Alexandria, VA 22313-1450
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FUSS & DAVIDENAS
6 ANTHONY LN
MABLEVALE, AR 72213

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JAN 2 1 2009

In re Application of :
Enrique Saldivar et al :
Application No. 11/975,895 : DECISION ON PETITION
Filed: October 22, 2007 :
Attorney Docket No. RM 0002P :

This is a decision on the petition, filed December 2, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Corrected Application Papers of January 25, 2008, which set a two (2) month period for reply. A reply was due on or before March 25, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on January 28, 2008. A copy of the previously submitted reply accompanies the petition.

The postcard receipt acknowledged as having been received in the USPTO on January 28, 2008 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the January 28, 2008 was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on January 28, 2008.

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 with petition.

Irvin Dingle
Petition Examiner
Office of Petitions

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/975,934	10/23/2007	Kazuhiro Oikawa	07699/LH	9734

7590 02/17/2010

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER	
FREEMAN, SHEMA TAIAN	
ART UNIT	**PAPER NUMBER**
2854	
MAIL DATE	**DELIVERY MODE**
02/17/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
02/17/2010 0030086319

Credit Card Refund Total: $510.00

Adjustment date: 02/17/2010 NFROSER
02 FC:1111 -510.00 DP

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IPG Photonics Corporation
50 Old Webster Road
Oxford, MA 01540

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Andrei Babuskin :
Application No. 11/975,964 : DECISION ON PETITION
Filed: October 23, 2007 :
Attorney Docket No. IPG-0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed November 23, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 24, 2008. A Notice of Abandonment was mailed August 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath and declaration, with a required surcharge fee of $130 (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the oath and declaration is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received February 26, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Kenyon & Kenyon, LLP
1500 K Street, N.W.
Suite 700
Washington, DC 20005

JUL 24 2009

In re application of	:	DECISION ON REQUEST TO
Hitoki Sugimoto	:	PARTICIPATE IN PATENT
Application No. 11/976,012	:	PROSECUTION HIGHWAY
Filed: October 19, 2007	:	PROGRAM AND PETITION
For: INTERNAL COMBUSTION ENGINE SYSTEM, POWER OUTPUT APPARATUS, VEHICLE, AND METHOD FOR CONTROLLING THE INTERNAL COMBUSTION ENGINE SYSTEM	:	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 23, 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 JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

TPL: 07/24/09

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

JUL 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Kenji Oshima	:	
Application No. 11/976,024	:	DECISION GRANTING PETITION
Filed: October 19, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 133459	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 12, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 3, 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 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Shunzo Yamashita	: DECISION ON REQUEST FOR
Patent Number	: 7663893	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/976,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,044	10/19/2007	Yoshiyuki Tomizawa	008312-0365981	7788

7590 07/10/2009

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER	
YE, LIN	

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
07/10/2009	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

Adjustment date: 07/13/2009 NFARMER
10722/2007 MAHMED1 00000078 033975 11976044
02 FC:1111 510.00 CR

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,080	10/19/2007	Kouichirou Yokoyama	MNL-2018-1841	7383

7590 08/05/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	

ART UNIT	PAPER NUMBER
2115	

MAIL DATE	DELIVERY MODE
08/05/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
08/07/2009 0030073079

Credit Card Refund Total: $510.00

An Exp..: XXXXXXXXXXX2021

Adjustment date: 08/07/2009 NFARMER
01/14/2008 MBELETE1 00000076 11976080
04 FC:1111 -510.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,082	10/19/2007	Seung-Hun Chae	301/076	7373

7590 11/02/2009

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

EXAMINER	
HJERPE, RICHARD A	
ART UNIT	**PAPER NUMBER**
2629	
MAIL DATE	**DELIVERY MODE**
11/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Refund Ref: 0030076265
11/02/2009

Credit Card Refund Total: $510.00

Am Exp..: XXXXXXXXXXX1003

Adjustment date: 11/02/2009 NFARMER
01/14/2008 MBELETE1 00000093 11976082
03 FC:1111 -510.00 OP

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,083	10/19/2007	Seung-Hun Chae	301/074	7370

7590 11/02/2009

LEE & MORSE, P.C.
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EXAMINER	
HJERPE, RICHARD A	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
11/02/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
11/02/2009 0030076267

Credit Card Refund Total: $510.00

Am Exp...: XXXXXXXXXXX1003

Adjustment date: 11/02/2009 NFARMER
01/15/2008 CNGUYEN2 00000066 11976083
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.
11/976,090	10/19/2007	Hyun Sik Moon	6661-000096/US	7377

30593 7590 01/11/2010
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
NARAGHI, ALI	
ART UNIT	PAPER NUMBER
2891	

MAIL DATE	DELIVERY MODE
01/11/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of: Lee, et al
Serial No.: 11/976090
Filed: October 19, 2007

: PETITION FOR CORRECTION OF
: INVENTORSHIP
: UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed 22 May 2008 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed 22 May 2008 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding:

Shinuk Cho

and deleting:

Hyun Sik Moon and Bon Won Koo

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.

KBryant

Kiesha R. Bryant
Supervisory Patent Examiner,
Art Unit 2891

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

McDERMOTT WILL & EMERY, LLP
600 13TH Street, N.W.
Washington, DC 20005-3096

In re Application of	:	DECISION ON REQUEST TO
Akihiro SAKAI et al.	:	PARTICIPATE IN PATENT
Application No. 11/976108	:	PROSECUTION HIGHWAY
Filed: October 22, 2007	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 071025-0028	:	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 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kathryn Gorgos
TQAS TC 1700

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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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Paper No.

DOSTER GREENE, LLC
#215
2 WISCONSIN CIRCLE SUITE 700
CHEVY CHASE MD 20815

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Polcha et al. : DECISION ON PETITION
Application No. 11/976,117 :
Filed: October 19, 2007 :
Atty Docket No. 1041-00-PT :

This is a decision on the PETITION TO REVIVE AN ABANDONED APPLICATION UNDER 37 CFR 1.137(b) filed October 1, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the Notice to File Missing Parts of Application mailed November 19, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice, with extensions of time under the provisions of 37 CFR 1.136(a) obtainable. No reply received and no extension of time obtained, the above-identified application became abandoned on January 20, 2008. A courtesy Notice of Abandonment was mailed on July 30, 2008.

Applicant has satisfied the requirements of 37 CFR 1.137(b). The petition includes the required reply in the form of replacement drawings and payment of the outstanding fees (late surcharge, filing, additional claim, search and examination), as well as, a preliminary amendment; the petition fee; and the required statement of unintentional delay.

It is noted that the statement of unintentional delay was made by practitioner Dinnatia J. Doster-Greene, who was appointed after the abandonment of the application. Thus, it does not appear that the practitioner was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay

at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the response to the Notice (late surcharge, filing, additional claim, search and examination fees) submitted on petition filed October 1, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,155	10/22/2007	Johannes Bossman	32368-252247	8869

7590 05/27/2008

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER	
ART UNIT	PAPER NUMBER
3765	
MAIL DATE	DELIVERY MODE
05/27/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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.
11/976,155	10/22/2007	Johannes Bossman	32368-252247	8869

7590 05/27/2008

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER	
ART UNIT	PAPER NUMBER
3765	
MAIL DATE	DELIVERY MODE
05/27/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 05/29/2008 KKING1
10/23/2007 MAHMED1 00000069 220261 11976155
02 FC:1111 510.00 CR
04 FC:1202 150.00 CR

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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SEP 16 2008

In re Application of :
Richard Bossmann et al. :
Filed: October 22, 2007 :
Application No. 11/976,155 :
Attorney Docket No. 32368-252247 : ON PETITION
For: Apparatus for the Sorting or Selection of :
a Fibre Sliver Comprising Textile Fibres :
Especially for Combing :

This is a decision on the petition under 37 CFR 1.182 and alternatively under 1.181(a)(3) received on June 4, 2008, to treat the above-identified application as expressly abandoned retroactively as of a date prior to the publication date of the above-identified application and to expunge the publication of the above-identified application.

The petition under 37 CFR 1.182 is **Dismissed**.

The petition under 37 CFR 1.181(a)(3) is **Dismissed**.

Background

The above-identified application was filed under 35 U.S.C. § 111(a) and 37 CFR 1.53(b) on October 22, 2007.

On November 13, 2007, a filing receipt was mailed notifying applicant of the projected publication date (April 24, 2008) of the above-identified application.

On December 17, 2007, a certified copy of the foreign priority application was received.

On February 21, 2008, a Petition for Express Abandonment to Avoid Publication under 37 CFR 1.138(c) and a Petition for Express Abandonment to Obtain a Refund were received.

On April 28, 2008, the above-identified application was published as Patent Application Publication US 2008/0092339 A1.

On May 27, 2008, the Petition under 37 CFR 1.138(c) to Avoid Publication was dismissed.

On May 27, 2008, the Petition for Express Abandonment under 37 CFR 1.138(d) to Obtain a Refund was granted.

STATUTE AND REGULATION

35 U.S.C. § 122[1] provides that:

> (a) CONFIDENTIALITY-- Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.
>
> (b) Publication--
>
> (1) IN GENERAL-- (A) Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.
>
> (B) No information concerning published patent applications shall be made available to the public except as the Director determines.
>
> (C) Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.
>
> (2) EXCEPTIONS-- (A) An application shall not be published if that application is--
>
> (i) no longer pending;
>
> (ii) subject to a secrecy order under section 181 of this title;
>
> (iii) a provisional application filed under section 111(b) of this title; or
>
> (iv) an application for a design patent filed under chapter 16 of this title.
>
> (B)(i) If an applicant makes a request upon filing, certifying that the invention disclosed in the 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 of applications 18 months after filing, the application shall not be published as provided in paragraph (1).
>
> (ii) An applicant may rescind a request made under clause (i) at any time.
>
> (iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international

[1] See 35 U.S.C. § 122 (Supp. V 1999).

application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

(iv) If an applicant rescinds a request made under clause (i) or notifies the Director that an application was filed in a foreign country or under a multilateral international agreement specified in clause (i), the application shall be published in accordance with the provisions of paragraph (1) on or as soon as is practical after the date that is specified in clause (i).

(v) If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

(c) PROTEST AND PRE-ISSUANCE OPPOSITION-- The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

(d) NATIONAL SECURITY-- No application for patent shall be published under subsection (b)(1) if the publication or disclosure of such invention would be detrimental to the national security. The Director shall establish appropriate procedures to ensure that such applications are promptly identified and the secrecy of such inventions is maintained in accordance with chapter 17 of this title.

37 CFR 1.138[2] provides that:

> (a) An application may be expressly abandoned by filing a written declaration of abandonment identifying the application in the United States Patent and Trademark Office. Express abandonment of the application may not be recognized by the Office before the date of issue or publication unless it is actually received by appropriate officials in time to act.
> (b) A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1), (b)(3), or (b)(4) to sign a paper in the application, except as otherwise provided in this paragraph. A registered attorney or agent, not of record, who acts in a representative capacity under the provisions of § 1.34(a) when filing a continuing application, may expressly abandon the prior application as of the filing date granted to the continuing application.
> (c) An applicant seeking to abandon an application to avoid publication of the application (see § 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this section including the fee set forth in § 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicant should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication.

37 CFR 1.182[3] provides that:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 1.181(a)(3)[4] provides that:

> (a) Petition may be taken to the Director:
> (3) To invoke the supervisory authority of the Director in appropriate circumstances. For Petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

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[2] See 37 CFR 1.138 (2006).

[3] See 37 CFR 1.182 (2004).

[4] See 37 CFR 1.181 (2004).

37 CFR 1.211[5] provides that:

> (a) Each U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and each international application in compliance with 35 U.S.C. 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code, unless:
> (1) The application is recognized by the Office as no longer pending;
> (2) The application is national security classified (see § 5.2(c)), subject to a secrecy order under 35 U.S.C. 181, or under national security review;
> (3) The application has issued as a patent in sufficient time to be removed from the publication process; or
> (4) The application was filed with a nonpublication request in compliance with § 1.213(a).
> (b) Provisional applications under 35 U.S.C. 111(b) shall not be published, and design applications under 35 U.S.C. chapter 16 and reissue applications under 35 U.S.C. chapter 25 shall not be published under this section.
> (c) An application filed under 35 U.S.C. 111(a) will not be published until it includes the basic filing fee (§ 1.16(a) or 1.16(g)), any English translation required by § 1.52(d), and an executed oath or declaration under § 1.63. The Office may delay publishing any application until it includes a specification having papers in compliance with § 1.52 and an abstract (§ 1.72(b)), drawings in compliance with § 1.84, and a sequence listing in compliance with §§ 1.821 through 1.825 (if applicable), and until any petition under § 1.47 is granted.
> (d) The Office may refuse to publish an application, or to include a portion of an application in the patent application publication (§ 1.215), if publication of the application or portion thereof would violate Federal or state law, or if the application or portion thereof contains offensive or disparaging material.
> (e) The publication fee set forth in § 1.18(d) must be paid in each application published under this section before the patent will be granted. If an application is subject to publication under this section, the sum specified in the notice of allowance under § 1.311 will also include the publication fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable. If the application is not published under this section, the publication fee (if paid) will be refunded.

DECISION

Petitioner asserts that the Petition for Express Abandonment under 37 CFR 1.138(c) received by the United States Patent and Trademark Office (Office) on February 21, 2008 should have prevented the publication of the above-identified application. Petitioner argues that since this petition for express abandonment was filed nine weeks prior to the projected publication date of the above-identified application, the Office had adequate time to act upon the petition of express

[5] See 37 CFR 1.211 (2004).

abandonment, as it was filed "more than double the statutory recommended time of 4 weeks". Petitioner states that he properly used the PTO form and submitted all the petition fees to prevent publication of the above-identified application. Petitioner states that the petition was miscoded as a "PET.SPRE –Petition for review by the Technology Center SPRE" instead of "PGEA-Request for Exp Abandonment for Refund or to Avoid Publication". Petitioner states that after receiving a decision on a request for Express Abandonment to avoid publication in a companion application (11/976,047), which was decided on March 19, 2008 that he checked Private PAIR to see if the PTO had received the Petition for Express Abandonment to avoid publication and that Petitioner was reassured that the Petition was properly filed and received, as it was listed in PAIR.

Petitioner asserts that this situation is different from the prior decision in application No. 09/860,710,[6] as the letter of express abandonment was filed 9 weeks prior to publication of the application, as a petition under 37 CFR 1.138(c), whereas in the prior decision the letter of express abandonment was filed four months prior to publication, but it was not a Petition under 37 CFR 1.138(c) to Avoid Publication. Petitioner also asserts that in the instant application Petitioner followed all the proper procedures, as he used the PTO form, submitted the proper fees in advance of the statutory time restraint and that Petitioner sent the paperwork to the proper Mail Stop which is pre-printed on the form and that if it was not due to the PTO error the application would have been properly abandoned and not published as a pre-grant publication.

Petitioner requests that the Office treat the above-identified application as expressly abandoned retroactively as of a date prior to the publication date of the above-identified application, and that the Office expunge the publication of the above-identified application from the Office's databases and other worldwide patent databases including, but not limited to, the European Patent Office's International Patent Documentation Center (INPADOC) patent database, Google Patents and Delphion.

The American Inventors Protection Act of 1999 (AIPA) was enacted into law on November 29, 1999. See Pub. L. 106-113, 113 Stat. 1501, 1501A-552 through 1501A-591 (1999). The AIPA contained a number of changes to title 35, including provisions for the publication of pending applications for patent, with certain exceptions, promptly after the expiration of a period of eighteen-months from the earliest filing date for which a benefit is sought under title 35 ("eighteen-month publication"). The eighteen-month publication provisions of the AIPA became effective on November 29, 2000, and apply to all applications filed on or after November 29, 2000. See Pub. L. 106-113, 113 Stat. At 1501A-566 through 1501A-567. The Office implemented the eighteen-month publication provisions of the AIPA in a final rule published in September of 2000. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. 57023 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63 (Oct. 10, 2000) (final rule).

One of the exceptions to the eighteen-month publication provisions of the AIPA is that an application shall not be published if the application is no longer pending. See 35 U.S.C. §122(b)(2)(A)(i). In implementing the eighteen-month publication provisions of the AIPA, the

[6] Denial of petition to treat the application as expressly abandoned retroactively as of a date prior to the publication date application and to expunge the publication decided in Pre-Grant Publication No. 2002/0016700 A1.

Office added 37 CFR 1.138(c) for the specific purpose of providing a petition for express abandonment to avoid publication for those applicants seeking to expressly abandon an application to avoid its publication under the eighteen-month publication provisions of the AIPA. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. at 57034, 1239 Off. Gaz. Pat. Office at 73. The Office also indicated that:

> Unless an applicant has received a notice of abandonment, an applicant who wants to abandon the application to avoid publication must file a petition under [37 CFR] 1.138(c) to expressly abandon the application and avoid publication. An applicant permitting an application to become abandoned (for failure to reply to an Office action) to avoid publication by passively waiting for the Office to recognize that the application has become abandoned must bear the risk that the Office will not recognize that the application has become abandoned and change the status of the application in the PALM system in sufficient time to avoid publication.

See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed Reg. at 57035, 1239 Off. Gaz. Pat. Office at 73 and MPEP 1120(II).

37 CFR 1.138(c) provides, in part, that "[a]n applicant seeking to abandon an application to avoid publication of the application (see [37 CFR] 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this section including the fee set forth in [37 CFR] 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process." Thus, the rule provides that express abandonment of the application may not be recognized by the Office before the date of publication unless it is actually received by appropriate officials in time to remove the application from the publication process. See 37 CFR 1.138(c). Furthermore, section 711.01 of the Manual of Patent Examining Procedure (8th ed., 2nd Rev. 2004) provides that a letter of abandonment properly signed becomes effective when an appropriate official of the Office takes action thereon.[7]

The petition under 37 CFR 1.182, which is for "questions not specifically provided for", is dismissed as inappropriate because 37 CFR 1.211 and 37 CFR 1.138 provide for publication including not publishing an application and abandonment of an application.

Petitioners filed a Petition for Express Abandonment under 37 CFR 1.138(c) including the required fee on February 21, 2008 "to the proper Mail Stop." [8] The Petition for Express Abandonment to Avoid Publication was not before the appropriate official in sufficient time permit the application to be removed from the publication process. Since, the Petition for Express Abandonment to Avoid Publication was not before the appropriate office in sufficient time to be removed from the publication process, the petition under 37 CFR 1.181(a)(3) is dismissed.

Alternatively, Petitioner's arguments are being treated under 37 CFR 1.183, Petitioner's assertion that he followed all the proper procedures in filing the Petition for Express

[7] See also section 711.01 of the Manual of Patent Examining Procedure (8th ed. 2001).
[8] According to Petitioner's argument, see page 5.

Abandonment to Avoid Publication under 37 CFR 1.138(c) and therefore the application should be treated as expressly abandoned as of a date prior to the publication date of the application is not persuasive. Petitioner filed the Petition for Express Abandonment under 37 CFR 1.138(c) "approximately 9 weeks prior to the projected publication date". According to Office Procedures, all Petitions to Avoid Publication under 37 CFR 1.138(c), which are filed less than 3 months from the projected date of publication should be submitted via facsimile to the Pre-Grant Publication Division. [9] Petitioner did not fax the Petition and fee to the Pre-Grant Publication Division as recommended in the MPEP. See MPEP 711.01 and MPEP 1135. The Petition for Express Abandonment under 37 CFR 1.138(c) was filed by Petitioner less than 3 months from the date of projected publication, however it was not faxed directly to the Pre-Grant Publication Division and thus it did not reach the appropriate Office official in the Pre-Grant Publication Division in sufficient time to abandon the application and remove the application from the publication process.

> Since a petition under 37 CFR 1.138(c) will not stop publication of the application unless it is recognized and acted on by the Pre-Grant Publication Division in sufficient time to avoid publication, applicants should transmit the petition by facsimile transmission in all instances where the projected publication date is less than 3 months from the date of the petition. This will increase the chance of such petition being received by the appropriate officials in sufficient time to recognize the abandonment and remove the application from the publication process. MPEP 711.01

Petitioner's assertion that the petition was filed before the four week statutory deadline is not persuasive. Initially there is not a statutory deadline to abandon an application to avoid publication, however an application must be recognized as abandoned by the appropriate Official at least 4 weeks prior to the projected publication date to remove an application from the publication process. See MPEP 1125. The Office has stated that filing a Petition to Avoid Publication under 37 CFR 1.138(c) more than 4 weeks prior to the projected publication date does not ensure that the Office will be able to remove the application from publication after the publication process has been initiated.

> Applicants may use form PTO/SB/24A (see MPEP § 1135) and mail the petition to Mail Stop Express Abandonment, or transmit the petition via facsimile to Pre-Grant Publication Division at (703) 305-8568 (see MPEP § 1730) to increase the chances of such petition being received by the appropriate officials in sufficient time to avoid publication of an application.
>
> Any applicant seeking to abandon the application for the purpose of avoiding publication must take appropriate action well prior to the projected publication date. If the application is not recognized as abandoned at least four weeks prior to the projected publication date, the Office will probably not be able to avoid publication of the application. This does not imply that a request to expressly abandon an application to avoid publication filed prior to this four-week time frame will ensure that the Office will be able to remove an application from publication. The Office simply cannot ensure that it can remove an application from publication or avoid publication of application information any time

[9] The Office has provided the fax number for the Pre-Grant Publication Division on the form.

after the publication process for the application is initiated (about 4 months prior to the projected publication date). MPEP 1125

Since Petitioners did not follow the procedure set forth in the MPEP, petitioners must accept the consequences of the Petition for Express Abandonment under 37 CFR 1.138(c) not being recognized by an appropriate Office official in sufficient time to avoid publication of the above-identified application.

Petitioner's assertion that the Office miscoded the petition as a petition for review by a Technology Center SPRE instead of as a Petition for Express Abandonment to Avoid Publication is not persuasive. The petition was not before the appropriate Office official in sufficient time to recognize the abandonment and remove the application from the publication process. The petition was not faxed directly to the Pre-Grant Publication Division at the fax number on the Office form, which is provided to increase the likelihood of the petition reaching the appropriate Office official in sufficient time to recognize the abandonment and remove the application from the publication process.

Since the letter of express abandonment of February 21, 2008 was not recognized by the appropriate Office official by April 24, 2008 (the date the above-identified application was published), the above-identified application was still pending on the date it was published as Patent Application Publication US 2008/0092339 A1. Therefore, the above-identified application was properly published under 35 U.S.C. § 122(b) on April 24, 2008 as Patent Application Publication US 2008/0092339 A1. There is no basis or authority for expunging the publication of an application that has been properly published as required by 35 U.S.C. § 122(b) from the Office's database or any other patent databases.

CONCLUSION

For the above-stated reasons, the petition under 37 CFR 1.182 or under 37 CFR 1.181(a)(3) to retroactively accept the above-identified application as expressly abandoned as of a date prior to the publication date of the above-identified application and to expunge the publication of the above-identified application is **dismissed**. Therefore, the Office will not expunge the publication of the above-identified application from the Office's or any other patent database.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The required $400 fee for the petition under 37 CFR 1.182 has been paid.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 34385
WASHINGTON, DC 20043-9998

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JUL 23 2010

OFFICE OF PETITIONS

Applicant: Johannes Bossmann et al.
Appl. No.: 11/976,155
Filing Date: October 22, 2007
Title: Apparatus for the Sorting or Selection of a Fibre Sliver Comprising Textile Fibres, Especially for Combing
Attorney Docket No.: 32368-252247
Pub. No.: US 20080092339 A1
Pub. Date: April 24, 2008

This is a decision on the request for reconsideration of a dismissal of a petition under 37 CFR 1.182 and alternatively 1.181(a)(3), received on November 13, 2008, for the above-identified application. Applicant requests that the application 11/976,155 be retroactively accepted as expressly abandoned as of a date prior to the publication date of the application, and that the publication be removed from the USPTO website, and that the Office initiate steps to remove the published application from other worldwide patent databases.

The petition under 37 CFR 1.181 is DENIED.

The petition under 37 CFR 1.182 is DENIED.

BACKGROUND

1. The above-identified application was filed under 35 U.S.C. § 111(a) and 37 CFR 1.53(b) on October 22, 2007. The above-identified application claims priority to German application 10 2006 050 384.8 (filed October 20, 2006), German application 20 2007 010 686.6 (filed June 29, 2007) and German application 10 2007 037 426.9 (filed August 8, 2007)

2. On November 13, 2007, the Office mailed a Filing Receipt notifying applicant of the projected publication date (April 24, 2008) of the above-identified application.

3. On February 21, 2008, a Petition for Express Abandonment to Avoid Publication under 37 CFR 1.138(c) and a Petition for Express Abandonment to Obtain a Refund were received.

4. On April 28, 2008, the above-identified application was published as Patent Application Publication US 2008/0092339 A1.

5. On May 27, 2008, the Office dismissed the Petition under 37 CFR 1.138(c) to Avoid Publication and the Office granted the Petition for Express Abandonment under 37 CFR 1.138(d) to Obtain a Refund.

6. On June 4, 2008, applicant filed a petition under 37 CFR 1.182 and alternatively 1.181(a)(3).

7. On September 16, 2008, the Office dismissed applicant's petition.

8. On November 13, 2008, applicant filed the instant request for reconsideration of the September 16, 2008 Office decision dismissing applicant's June 4, 2008 petition under 37 CFR 1.182 and alternatively 1.181(a)(3).

PERTINENT STATUTE AND REGULATION

35 U.S.C. § 122 provides, in pertinent part:

(b)(1)(A) Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period. . . .

(b)(2) EXCEPTIONS. —
(A) An application shall not be published if that application is —
(i) no longer pending; . . . (emphasis added)

37 CFR 1.138 provides, in pertinent part:

(a) An application may be expressly abandoned by filing a written declaration of abandonment identifying the application in the United States Patent and Trademark Office. Express abandonment of the application may not be recognized by the Office before the date of issue or publication unless it is actually received by appropriate officials in time to act. . . .

(c) An applicant seeking to abandon an application to avoid publication of the application (see § 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this paragraph including the fee set forth in § 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicants should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication. . . . (emphasis added)

37 CFR 1.181 provides, in pertinent part:

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

37 CFR 1.182 provides that:

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 CFR 1.211 provides, in pertinent part:

(a) Each U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and each international application in compliance with 35 U.S.C. 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code, unless:

(1) The application is recognized by the Office as no longer pending;

DECISION

Petitioner asserts that PTO error resulted in delayed consideration of a February 21, 2008 petition to expressly abandon the application, causing the application to be published. Petitioner's assertion is grounded in the following arguments. First, that petitioner fully complied with 37 CFR 1.138(c). Second, that PTO error in miscoding the petition as a "PET.SPRE – Petition" caused the petition not to be before the appropriate official. Third, that petitioner mailed the petition to the appropriate address. On these grounds, petitioner submits that petitioner's compliance with the applicable rules requires the application of appropriate remedies detailed in the instant petition. Each of these grounds is addressed in detail in items 2, 3 and 4 below.

1. Publication of the Application Was Required Under the Statute.

Initially, it must be noted that the publication of the application was required under the applicable statute. 35 U.S.C. § 122(b)(1)(A) states that each application for a patent shall be published promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought. 35 U.S.C. § 122(b)(2)(A)(i) states that an application shall not be published if that application is no longer pending.

Publication occurred on April 24, 2008. On April, 24, 2008, the application was still pending and petitioner does not contest this fact. Although a request for express abandonment was filed on February 21, 2008, such a request did not become effective until an appropriate official of the Office takes action thereon.[1] On May 27, 2008, the Office granted the Petition for Express Abandonment to Obtain a Refund and abandoned the application. Since the application was still pending as of the publication date, 35 U.S.C. § 122(b) mandates publication of the application.

2. The Petition Did Not Comply With the Applicable Rules.

Petitioner asserts that his submission of the petition for express abandonment nine weeks prior to the projected publication date met the requirements of 37 CFR 1.138(c), and his application should therefore have been abandoned prior to publication, rather than subsequent to publication as actually occurred.

37 CFR 1.138 states that it is the date of receipt by the appropriate officials, and not the date of submission, that controls whether the application will be abandoned prior to publication. 37 CFR 1.138(a) reads: "[e]xpress abandonment of the application may not be recognized by the Office before the date of issue or publication unless it is actually received by appropriate officials in time to act." 37 CFR 1.138(c) requires that the "appropriate officials" will need to "recognize the abandonment and remove the application from the publication process."

Petitioner acknowledges that the petition was not in front of the appropriate officials at least four (4) weeks prior to the projected publication date, due to an Office error in coding the petition.[2] Thus, Petitioner's argument supports the Office's position that the above-recited requirements of 37 CFR 1.138 were not satisfied, as the petition was not in front of the appropriate officials at least four (4) weeks prior to the projected publication date and the application was not abandoned at least four (4) weeks prior to publication.

Petitioner relies upon another phrase in 37 CFR 1.138(c) which states that "the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication." However, this phrase points out that "[a]pplicants should expect" that the petition will not be granted if submitted less than four weeks prior to the projected date of publication. Additionally, it evidences that filing a request for express abandonment is not a guarantee for abandonment and removal from the publication process prior to publication. This does not, as petitioner would imply, provide a safeguard for petitions submitted to the Office more than four weeks prior to the projected date of publication. Therefore, petitioner cannot rely upon this phrase to require abandonment and nonpublication based upon any submission date of a petition more than four weeks prior to the projected publication date.

Since 37 CFR 1.138(c) requires that the petition be "actually received" by the appropriate official, and it was not, petitioner's argument that the requirements of 37 CFR 1.138(c) were met is unpersuasive.

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[1] See 37 CFR 1.38 and MPEP 711.01.

[2] Petition at 4.

3. The Petition Was Not Before the Appropriate Official.

As stated above, the petition for express abandonment was not in front of the appropriate officials, due to an error in coding the petition. Petitioner argues that a petition in a separate case filed on the same date was actually acted upon prior to publication resulting in the prevention of publication of that application.[3] Petitioner draws from this that PTO error prevented the petition from reaching the appropriate official.

However, the requirement in 37 CFR 1.138 that the petition be "actually received" by the appropriate official is fatal to petitioner's argument based upon comparison with a petition filed in another case, since it is the date of actual receipt by the appropriate official, and not the date of deposit with the Office nor any expected petition processing time, which is set forth in the plain language of 37 CFR 1.138. Both the statute, 35 U.S.C. § 122, and the regulation, 37 CFR 1.138, are drawn in absolute terms. 35 U.S.C. § 122 requires publication unless the application is actually no longer pending; 37 CFR 1.138 requires actual receipt by the appropriate officials for a recognition of express abandonment. Neither the statute nor the regulation supports nonpublication because the Office "should have" placed an application in an abandoned status. The Office regrets that miscoding of the petition may have caused delay in processing the petition for express abandonment, however the Office is without authority to retroactively abandon the application and withdraw the publication.

4. The Petition Was Not Submitted In the Manner Recommended by the Office.

Petitioner's final argument rests on compliance with the rule, as the petition was sent to an appropriate address. Petitioner states that the petition was hand carried to the Office, and that the instructions in the Manual of Patent Examining Procedure (MPEP) are only guidelines. Petitioner asserts that the guidelines in the MPEP, which instruct that a petition under 37 CFR 1.138(c) may be "mailed to Mail Stop Express Abandonment" or "transmitted by facsimile transmission to the Pre-Grant Publication Division" are just guidelines or suggestions and do not have to be followed. Petitioner points out that the MPEP clearly states that "The Manual does not have the force of law or the force of the rules in Title 37 of the Code of Federal Regulations." Petitioner then argues that the commentary in the MPEP, which states that petitions for express abandonment submitted within 3 months of the projected publication date should be transmitted via facsimile is inconsistent with the rule, which states "Applicants should expect that the petition will not be granted ... unless ... received by the appropriate officials more than **four weeks** prior to the projected date of publication".

The MPEP sets forth additional guidance to help eliminate the possibility that a petition for express abandonment would be mishandled. These guidelines were not followed. The MPEP sections 711.01 and 1125 suggests mailing the petition to Mail Stop Express Abandonment or transmitting the petition to a targeted facsimile number for the Pre-Grant Publication Division to insure proper handling of the petition.[4,5] The petition was hand-carried to the Office, but the

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[3] Petition at 4.

[4] It is noted that the form PTO/SB/24A Petition for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c) provides instructions that the petition should be fax directly to the Pre-Grant Publication Division or mailed to Mail Stop Express Abandonment.

petition did not indicate that the petition was for Mail Stop Express Abandonment. While hand-carrying ensures delivery to the Office, the guidance set forth in the MPEP was designed to ensure that the petition is directed towards the appropriate official within the Office.
Both of the above mentioned sections in the MPEP recommend fax transmission to the Pre-Grant Publication Division to increase the chances of the petition being received by the appropriate officials in sufficient time to avoid publication of the application. Furthermore, MPEP 711.01 recommends facsimile transmission "in all instances where the projected publication date is less than 3 months from the date of the petition." The petition was submitted to the Office at nine weeks prior to the projected publication date. The guidelines recommended submission by facsimile to insure proper handling of the petition for express abandonment by the appropriate Official in this instance. While Petitioner argues that the MPEP does not have the force of law or rule, the procedure was designed to insure proper handling of the petitions and Petitioner failed to follow this suggested procedure.

Petitioner's assertion that he complied with the rule (37 CFR 1.138(c)), and since the rule is inconsistent with the "commentary" in the MPEP that the rule should govern in this situation is not persuasive. While Petitioner filed the petition for express abandonment more than 4 weeks prior to the projected publication date, the petition was not received by the appropriate official more than 4 weeks prior to the projected publication date, therefore the application was published.

While the Office regrets the delay in processing the petition for express abandonment, any Office delays in processing the petition must be considered with the knowledge that Petitioner did not follow the recommended procedures for submission of the petition to avoid delays in the processing of the petition. Since the petition was not submitted in the manner suggested in the MPEP, petitioner cannot rely upon the manner of submission to support the contention that petitioner could not have acted differently to ensure actual, timely receipt of the petition by the appropriate official.

5. Summary

The petition for express abandonment of February 21, 2008 was not submitted in the manner suggested in the MPEP such that it was transmitted by facsimile to a targeted facsimile number or, less optimally, by mail to a specified mail stop to facilitate processing to the appropriate official in the Office. Subsequently, the petition for express abandonment was not actually received by the appropriate official to recognize the abandonment and remove the application from the publication process, as required for abandonment prior to publication pursuant to 37 CFR 1.138.

With respect to the petition under 37 CFR 1.181, since the letter of express abandonment of February 21, 2008 was not recognized and acted upon by the appropriate Office official by March 28, 2008 (4 weeks prior to the projected publication date), the above-identified

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[5] Current form PTO/SB/24A Petition for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c) provides instructions that the petition should be filed electronically using EFS-Web or mailed to Mail Stop Express Abandonment.

application was published as Patent Application Publication US 2008/0092339 A1. Therefore, the above-identified application was properly published under 35 U.S.C. § 122(b) on April 24, 2008 as Patent Application Publication US 2008/0092339 A1.

The petition under 37 CFR 1.182, is dismissed as inappropriate, because 37 CFR 1.211 and 37 CFR 1.138 provide for publication of applications including not publishing applications, which are recognized as abandoned in sufficient time to be pulled from the publication cycle. The above-identified application was not recognized as abandoned in sufficient time to be pulled from the publication process. As noted in the earlier decision, it appears Petitioner is arguing for waiver of the rules; however he has not filed a petition under 37 CFR 1.183.

Whether, it is a petition under 37 CFR 1.181, 37 CFR 1.182 or 37 CFR 1.183, the Office has no basis or statutory authority to retroactively abandon an application as of an earlier date and to expunge the publication of an application that has been properly published as required by 35 U.S.C. § 122(b) from the Office's database or any other patent databases.

CONCLUSION

For the above-stated reasons, the request for reconsideration of the petition under 37 CFR 1.182 or under 37 CFR 1.181 (a)(3) to retroactively accept the above-identified application as expressly abandoned as of a date prior to the publication date of the above-identified application and to expunge the publication of the above-identified application is **denied**. Therefore, the Office will not expunge the publication of the above-identified application from the Office's or any other patent database.

This decision may be viewed as a final agency action. See MPEP 1002.02(b).

Inquiries relating to this matter may be directed to Mark Polutta, Senior Legal Advisor, at (571) 272-7709.

Brian E. Hanlon

Brian Hanlon
Director,
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Masaaki Togashi	:	
Application No. 11/976,177	:	DECISION GRANTING PETITION
Filed: October 22, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 134401	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 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 22, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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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In re Application of	:	
TOGASHI, MASAAKI	:	AUG 24 2009
Application No.: 11/976,177	:	DECISION ON
Filing or 371(c) Date: 10/22/07	:	PETITION
Attorney Docket Number: 134401	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed June 8, 2009.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed November 14, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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JAN 07 2009

Applicant: Linde et al.
Appl. No.: 11/976,182
Filing Date: October 22, 2007
Title: METHOD AND APPARATUS OF TOW RADIO FREQUENCY DEVICE
Attorney Docket No.: 1875.8140002
Pub. No.: 2008/0056115 A1
Pub. Date: March 6, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 24, 2008 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 12 2009

OFFICE OF PETITIONS

In re Application of
Kassay et al.
Application No. 11/976,194
Filed: October 22, 2007
Attorney Docket No. 2632.300NP

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified application.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. J. Andrew McKinney Jr., appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed to petitioner at the address noted on the petition, all future correspondence will be mailed solely to the address of record.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 6, 2009, as required by the Notice of Allowance and Fee(s) Due mailed January 5, 2009. A Notice of Abandonment was mailed April 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755; (2) the petition fee of 810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

This application is being referred to the Office of Data Management for processing into a patent.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: J. ANDREW MCKINNEY JR.
PO BOX 1290
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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.
11/976,258	10/23/2007	Hitoki Sugimoto	12699/84	9066

EXAMINER

7590 10/23/2008

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

ART UNIT	PAPER NUMBER
3747	

MAIL DATE	DELIVERY MODE
10/23/2008	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.

Kaletus Buchanan

Patent Publication Branch
Office of Data Management

Adjustment date: 10/23/2008 KKING1
10/24/2007 MAHMED1 00000033 110600 11976258
02 FC:1111 510.00 CR

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,258	10/23/2007	Hitoki Sugimoto	12699/84	9066

EXAMINER	

ART UNIT	PAPER NUMBER
3747	

MAIL DATE	DELIVERY MODE
10/22/2008	PAPER

7590 10/22/2008

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Valethia Buchanan

Patent Publication Branch
Office of Data Management

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OFFICE OF PETITIONS

In re Application of Inamura :
Application No. 11/976,302 : Decision on Petition
Filing Date: October 23, 2007 :
Attorney Docket No. 027514-00018 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 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 Application (Notice) mailed November 26, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, January 29, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the Notice to File Missing Parts in the form of a declaration and required fees. Petitioner has submitted the required petition fee of $1,540. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Application Processing will be informed of the instant decision and will prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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DEC 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Inamura :
Application No. 11/976,312 : DECISION
Filed: 23 October, 2007 :
Attorney Docket No. 027514-00017 :

This is a decision on the petition, filed on 23 July, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the Notice of Missing Parts (fees, oath/declaration, surcharge) mailed on 26 November, 2007, with reply due absent an extension of time on or before 26 January, 2008.

The Application went abandoned after midnight 26 January, 2008.

At this writing it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 23 July, 2008, Petitioner filed the instant petition with fee, a reply in the form of fee authorization (not previously charged but now charged to Deposit Account 01-2300), an oath/declaration and surcharge (now also charged), and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]

As to Allegations of Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of :
Reid, et al. :
Application No. 11/976,314 : ON PETITION
Filed: October 23, 2007 :
Attorney Docket No. 550-974 :
For: VARIABLE COHERENCY SUPPORT WHEN MAPPING A COMPUTER PROGRAM TO A DATA PROCESSING APPARATUS

This is a decision on the petition, filed December 5, 2007, requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 23, 2007, insofar as the Notice states that Figure 15 was omitted from the application filed on October 23, 2007.

The application was filed on October 23, 2007. On November 23, 2007, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 15 was missing from the application filed on October 23, 2007.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 15 be accorded a filing date of October 23, 2007 on the basis that it was received in the Patent and Trademark Office (PTO) on October 23, 2007.

In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 23, 2007 as the date of receipt. The postcard lists that the filing included, *inter alia*, 20 sheets of drawings. A review of the application file reveals that there are 19 sheets present.

The return postcard constitutes *prima facie* evidence that 20 sheets of drawings were filed on October 23, 2007. MPEP 503. Accordingly, the request is **granted**.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office Patent Application Processing for further pre-examination processing, with a filing date of October 23, 2007, using the copy of Figure 15 supplied with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/976,412	10/24/2007	Yutaka Kawamori	134428	2242

7590 09/10/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
ZOLLINGER, NATHAN C	

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
09/10/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref: 09/11/2009 NFARMER 0000168781

CHECK Refund Total: $510.00

Adjustment date: 09/11/2009 NFARMER
10/25/2007 AWONDAF1 00000076 11976412
02 FC:1111 -510.00 OP

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

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OFFICE OF PETITIONS

Applicant: Watanabe, et al.
Appl. No.: 11/976,414
Filing Date: October 24, 2007
Title: NOVEL G PROTEIN COUPLED RECEPTOR PROTEIN, DNA ITS LIGAND
Attorney Docket: 2007_1856
Pub. No.: US 2008/0131976 A1
Pub. Date: June 5, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 28, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the title of the invention contains errors, in that "and" is missing from "NOVEL G PROTEIN COUPLED RECEPTOR PROTEIN, DNA ITS LIGAND".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein the title of the invention contains the error of omitting "and" in between "DNA" and "ITS" may be an Office error, but it is a not material Office error under 37 CFR 1.221. The error does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On December 6, 2007 and February 27, 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 make request a corrected filing receipt.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

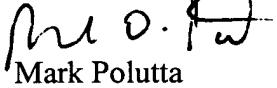
A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark 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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FEB 02 2010

OFFICE OF PETITIONS

GUICE PATENTS PLLC
12647 GALVESTON COURT #302
MANASSAS VA 20112

In re Application of :
Cheng Sheng LEE :
Application No. 11/976,449 : DECISION ON PETITION
Filed: October 24, 2007 :
Attorney Docket No. 4609-0003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 23, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form the proper fees; (2) the petition fee of $810; 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for further processing in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/976,491	10/25/2007	Tsutomu Ohzuku	043888-0611	2263

20277 7590 01/19/2010
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER	
WEINER, LAURA S	
ART UNIT	**PAPER NUMBER**
1795	

MAIL DATE	DELIVERY MODE
01/19/2010	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
P.O. Box 1450
Alexandria, VA 22313-1450
WWW.USPTO.GOV

1/19/2010

chk

In re application of	OHZUKU et al.	:
Serial no.	11976491	: DECISION
Filed:	October 25, 2007	: ON
		:
		: PETITION
		:
For: POSITIVE ELECTRODE ACTIVE MATERIAL AND NON-AQUEOUS ELECTROLYTE SECONDARY BATTERY CONTAINING THE SAME		:

This is a decision on the PETITION FILED UNDER under 37 C.F.R. § 1.84 to include Color Formal Drawings dated January 4, 2008.

It is noted that the applicant has met the requirements under 37 C.F.R. § 1.84:
(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings;

However, applicant has not met the requirement of under 37 C.F.R. § 1.84:

(iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of the brief description of the drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Therefore, the petition is **DENIED**.

Cynthia H. Kelly
SPE, Technology Center 1700
Chemical and Materials Engineering

Bernard P. Codd
McDERMOTT WILL & EMERY LLP
600 13th St. NW
Washington, D.C. 20005-3096

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JUN 20 2008

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of	:
Sotiriou, et al.	: DECISION REFUSING STATUS
Application No. 11/976,522	: UNDER 37 CFR 1.47(a)
Filed: October 25, 2007	:
Atty. Dkt. No.: 15291.0002 - C1	:

This decision is in response to the petition under 37 CFR 1.47(a) filed March 24, 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 October 25, 2007 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed November 27, 2007. The Notice required a surcharge and an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1), petitioners have failed to establish that the non-signing inventors received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

Petitioners allege that the application papers were mailed to non-signing inventors Cortadella, Kondratyev, and Lavagno at their last known addresses. Copies of letters from practitioner to the non-signing inventors dated December 2007 were included with the petition.

Petitioners allege that after receipt of the package containing the application papers, inventor Lavagno refused, in writing, to the sign the declaration. The petition is accompanied by a copy of the letter dated February 14, 2008 from inventor Lavagno where in said inventor expresses an unwillingness to sign the "documents" received from practitioner herein.

As inventor Lavagno acknowledges receipt of "documents" from practitioner and an unwillingness to sign the "documents, it can found that inventor Lavagno has refused to execute the declaration of the instant application after having been presented with the application papers.

Petitioners assert that, to date, no response has been received from inventors Cortadella and Kondratyev.

However, petitioners have failed to establish that the applications papers were mailed to inventors Cortadella and Kondratyev at their last known address and that thereafter, no response was received from said inventors. The application papers appear to have been mailed to the inventors at their business address.

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 which, in a Rule 47 scenario, is a residential address. *See*, MPEP 605.03.

Any renewed petition should be accompanied by evidence to establish that each 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 inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and

detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration presented is unacceptable as it does not set forth the entire inventive entity in accordance with 37 CFR 1.63(a) and thus has not been properly executed on behalf of the non-signing inventors.

All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the non-signing joint inventors as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventors left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventors, unless otherwise indicated. MPEP 409.03(b).

Any renewed petition must be accompanied by an oath or declaration in full compliance with 37 CFR 1.63 and 1.64.

As to item (4), the last known addresses of the non-signing inventors have not been provided. Petitioners have provided what appear to be business addresses for the non-signing inventors.

An application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. Ordinarily, the last known address will be the last known residence of the non-signing inventor. Inasmuch as a non-signing inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the non-signing inventor may be reached should also be given. Each applicant's mailing or post office address is required to be supplied on the oath or declaration, if not stated in an application data sheet. Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address. The mailing address should include the ZIP Code designation. The object of requiring each applicant's mailing address is to enable the Office to communicate directly with the applicant if desired; hence, the address of the attorney with instruction to send communications to applicant in care of the attorney is not sufficient. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the

inventor's most recent home address **must** be given to enable the Office to communicate directly with the inventor as necessary. *See* MPEP §§ 409.03(e) and 605.03.

Any renewed petition must include a statement setting forth the last known addresses of the non-signing inventors.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 26 2008

OFFICE OF PETITIONS

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of
Sotiriou, et al.
Application No. 11/976,522
Filed: October 25, 2007
Attorney Docket No. 15291.0002 - C1

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 20, 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 (2) set forth above. The decision on petition mailed June 20, 2008 required a newly executed oath or declaration executed by the available inventor(s). Petitioners have not submitted a newly executed oath or declaration. Instead, petitioners have amended the previously submitted declaration which is not acceptable.

A new oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the available inventors on behalf of themselves and on behalf of the non-signing inventors is REQUIRED. *See* MPEP 409.03(a). All the available inventors must sign the new declaration that lists the non-signing inventors' citizenship because they are attesting that this information is true to the best of their knowledge.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of
Sotiriou, et al.
Application No. 11/976,522
Filed: October 25, 2007
Attorney Docket No. 15291.0002 - C1

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 24, 2008.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition fails to satisfy requirement (2) set forth above. The declaration is defective as it fails to comply with 37 CFR 1.63(a)(3) and 1.63(c)(1).

A new oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the available inventors on behalf of themselves and on behalf of the non-signing inventors is REQUIRED. *See* MPEP 409.03(a). All the available inventors must sign the new declaration that complies with all of the requirements of 37 CFR 1.63 and 1.64.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
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

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1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of :
Sotiriou, et al. : DECISION GRANTING STATUS
Application No. 11/976,522 : UNDER 37 CFR 1.47(a)
Filed: October 25, 2007 :
Attorney Docket No. 15291.0002 - C1 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 18, 2009.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventors have either refused to sign the declaration for the above-identified application after having been presented with the application papers or cannot be located to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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LUCIANO LAVAGNO
2017 DELAWARE ST.
BERKELEY, CA 94709

In re Application of
Sotiriou, et al.
Application No. 11/976,522
Filed: October 25, 2007
Attorney Docket No. 15291.0002 - C1

MAILED

MAR 23 2009

OFFICE OF PETITIONS

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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JORDI CORTADELLA
CALLE DE JOAN MARAGALL, 16
08620 – SANT VINCEÇ DELS HORTS
BARCELONA, SPAIN

MAILED

MAR 23 2009

OFFICE OF PETITIONS

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ALEX KONDRATYEV
1212 CAPRI DR.
CAMPBELL, CA 95008

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/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: STEPTOE & JOHNSON LLP
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WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Kenichi MIYAMOTO	: DECISION ON REQUEST FOR
Patent Number	: 7624306	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/976,530	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **123** 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.