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

Mail Date: 04/21/2010

Applicant	: Yung-Tsung Lin	: DECISION ON REQUEST FOR
Patent Number	: 7588094	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/984,909	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **128** 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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The Hong Kong Polytechnic University
Suite 600, Mailbox #119
1800 Diagonal Road
Alexandria VA 22314

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Ching-Hsiang Cheng, et al.	:	
Application No. 11/984,915	:	DECISION ON PETITION
Filed: November 26, 2007	:	TO WITHDRAW
Attorney Docket No. IP-422A	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

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

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

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/984,987	11/26/2007	Jaeyoung Yeo	P58415	3422

7590 10/23/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/23/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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MAR 16 2009

OFFICE OF PETITIONS

Paper No.

Attn: Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville NY 11747

In re Application of	:	
Paul Generowicz et al.	:	
Application No. 11/985,075	:	DECISION ON PETITION
Filed: November 13, 2007	:	UNDER 37 C.F.R. § 1.181
Title: WINDOW LOCK KEEPER	:	

This is a decision on the petition filed on February 19, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts, mailed December 12, 2007, which set a shortened statutory period for reply of two months. A response was filed on February 14, 2008 (along with a certificate of mailing dated February 12, 2008) containing, *inter alia*, a preliminary amendment. A first notice of incomplete reply was mailed on March 7, 2008, which did not extend the period for response set by the Notice of Missing Parts. A response was received on March 28, 2008, and a second notice of incomplete reply was mailed on April 11, 2008, which did not extend the period for response set by the Notice of Missing Parts. A substitute specification was received on May 15, 2008. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 13, 2008. A notice of abandonment was mailed on February 2, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. §§ 1.121(a) and (b) set forth, *in pertinent part*:

> (a) Amendments in applications, other than reissue applications. Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.
>
> (b) Specification. Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in this section.
>
> (1) Amendment to delete, replace, or add a paragraph. Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting:
> (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;
> (ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived;
> (iii) The full text of any added paragraphs without any underlining; and
> (iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.
>
> ...
>
> (3) Amendment by substitute specification. The specification, other than the claims, may also be amended by submitting:
> (i) An instruction to replace the specification; and
> (ii) A substitute specification in compliance with §§ 1.125(b) and (c).

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is

required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

With this petition, Applicant has asserted that the holding of abandonment is erroneous, due to the fact that a response to the Notice of Missing Parts was timely filed on February 12, 2008, and received in the Office on February 14, 2008.

The electronic file has been reviewed.

This application was deposited on November 13, 2007. On the sixth page of the specification, appears the sentence

"Figure 10C is a cut away view of Figure 10A taken along A-A."

However, Figure 10C was not among the figures present on initial deposit. Consequently, the Office mailed a Notice of Missing Parts on December 12, 2007, requiring, *inter alia*, a copy of Figure 10C. The notice set forth several options for Applicant, the relevant one being option III(A)(2), which indicated, *in pertinent part:*

"Applicant may accept the application in the USPTO by filing an appropriate amendment…

For a missing figure of the drawings…a substitute specification excluding claims that amends the specification to cancel any references to any omitted drawing(s)…and a statement that the substitute specification includes no new matter, in compliance with 37 CFR 1.121(b)(3) and 1.125."

In other words, the Notice of Missing Parts indicated that if the specification contains an erroneous reference to a non-existent figure, the correct course of action for Applicant to undertake would be to file both a substitute specification (which does not contain the erroneous reference) and a statement that the substitute specification contains no new matter.

It is noted that **the Notice of Missing Parts contains no provision for removal of the erroneous reference via the filing of an amendment to delete the paragraph containing the erroneous reference pursuant to 37 C.F.R. § 1.121(b)(1).**

Instead of complying with the notice and filing the substitute specification pursuant to 37 C.F.R. §§ 1.121(b)(3) and 1.125 along with a statement pertaining to the lack of new matter, on February 12, 2008, Applicant submitted a preliminary amendment instructing the deletion of the offending paragraph, pursuant to 37 C.F.R. § 1.121(b)(1). As noted in the immediately preceding paragraph, this was not an option that was provided for in the Notice of Missing Parts.

Consequently, a first notice of incomplete reply was mailed on March 7, 2008, which reiterated the need for the filing of both a substitute specification and a statement that the substitute specification contains no new matter. See paragraph III(A)(2) of this communication.

On March 28, 2008, a response to this notice of incomplete reply was received. Again, neither a substitute specification nor a statement pertaining to the lack of new matter were provided to the Office. Applicant instead submitted a letter which explained that a preliminary amendment had been preveniently filed on February 12, 2008.

Consequently, a second notice of incomplete reply was mailed on April 11, 2008, which reiterated the need for the filing of both a substitute specification and a statement that the substitute specification contains no new matter. See paragraph III(A)(2) of this communication.

On May 15, 2008, a response to this second notice of incomplete reply was received, which included both another preliminary amendment directing the deletion of the offending paragraph, pursuant to 37 C.F.R. § 1.121(b)(1) and a substitute specification pursuant to 37 C.F.R. §§ 1.121(b)(3) and 1.125. It is noted that this submission contained neither an amendment directing the entry of the substitute specification (as is required by 37 C.F.R. § 1.121(b)(3)(i)) nor a statement pertaining to the lack of new matter.

In other words, none of these submissions fully complied with the requirements of any of the three notices mailed by the Office on December 12, 2007, March 7, 2008, and April 11, 2008. Applicant submitted an amendment directing the deletion of the

offending paragraph. Applicant then submitted a letter indicating that he had preveniently submitted an amendment. Finally, Applicant submitted both an amendment and the proper substitute specification, but failed to include either the required amendment directing the entry of the substitute specification or the required statement pertaining to the lack of new matter.

Moreover, Applicant did not submit an extension of time to make either of the latter two responses timely, and the electronic file does not contain a general authorization to charge any fee deficiencies to a Deposit Account.

The record does not support a finding that the holding of abandonment should be withdrawn. As such, the petition must be **DISMISSED.**

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 Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that ty7he 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].

Alternatively, since it does not appear that Applicant is in a position to establish that the holding of abandonment should be withdrawn, Applicant may wish to consider filing a petition under 37 C.F.R. §§ 1.137(a) and/or (b).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Applicant 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, Applicant is reminded that no telephone discussion may be controlling or considered authority for Applicant's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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JUN 15 2009

OFFICE OF PETITIONS

Attn: Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville NY 11747

In re Application of	:	DECISION ON RENEWED PETITION
Paul Generowicz et al.	:	UNDER 37 C.F.R. § 1.181 AND
Application No. 11/985,075	:	PETITION UNDER 37 C.F.R.
Filed: November 13, 2007	:	§ 1.137(B)
Title: WINDOW LOCK KEEPER	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed on March 30, 2009, to revive the above-identified application. This is also a decision on the concurrently filed renewed petition pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The renewed petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts, mailed December 12, 2007, which set a shortened statutory period for reply of two months. A response was filed on February 14, 2008 (along with a certificate of mailing dated February 12, 2008) containing, *inter alia*, a preliminary amendment. A first notice of incomplete reply was mailed on March 7, 2008, which did not extend the period for response set by the Notice of Missing Parts. A response was received on March 28, 2008, and a second notice of incomplete reply was mailed on April 11, 2008, which did not extend the period for response set by the Notice of Missing Parts. A substitute specification was received on May 15, 2008. No extensions of time under the provisions of

37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 13, 2008. A notice of abandonment was mailed on February 2, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. §§ 1.121(a) and (b) set forth, *in pertinent part*:

> (a) Amendments in applications, other than reissue applications. Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.
>
> (b) Specification. Amendments to the specification, other than the claims, computer listings (§ 1.96) and sequence listings (§ 1.825), must be made by adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in this section.
>
> (1) Amendment to delete, replace, or add a paragraph. Amendments to the specification, including amendment to a section heading or the title of the invention which are considered for amendment purposes to be an amendment of a paragraph, must be made by submitting:
> (i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or add one or more paragraphs;
> (ii) The full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived;
> (iii) The full text of any added paragraphs without any underlining; and
> (iv) The text of a paragraph to be deleted must not be presented with strike-through or placed within double brackets. The instruction to delete may identify a paragraph by its paragraph number or include a few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.
>
> ...
>
> (3) Amendment by substitute specification. The specification, other than the claims, may also be amended by submitting:
> (i) An instruction to replace the specification; and
> (ii) A substitute specification in compliance with §§ 1.125(b) and (c).

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSES

The renewed petition pursuant to 37 C.F.R. § 1.181:

An original petition pursuant to 37 C.F.R. § 1.181 was filed on February 19, 2009, and was dismissed via the mailing of a decision on March 16, 2009.

As was set forth on pages 3-6 of the decision on the original petition, the Notice of Missing Parts indicated that if the specification contains an erroneous reference to a non-existent figure, Applicant would need to do two things:

- file a substitute specification (which does not contain the erroneous reference) and
- file a statement that the substitute specification contains no new matter.

Instead of filing these required items, on March 7, 2008, Applicant submitted a preliminary amendment.

A first notice of incomplete reply was mailed on March 7, 2008, which reiterated the need for the filing of both a substitute specification and a statement that the substitute specification contains no new matter.

On March 28, 2008, a response to this notice of incomplete reply was received, and again, Applicant failed to provide either of the two required items.

A second notice of incomplete reply was mailed on April 11, 2008, which reiterated the need for the filing of both a substitute specification and a statement that the substitute specification contains no new matter. With this renewed petition, Applicant has asserted that the notice of April 11, 2008 "does not identify that a substitute specification is required." Applicant is directed towards paragraph III(A)(2) of this communication.

On May 15, 2008, a response to this second notice of incomplete reply was received, which included both another preliminary amendment directing the deletion of the offending paragraph, pursuant to 37 C.F.R. § 1.121(b)(1) and a substitute specification pursuant to 37 C.F.R. §§ 1.121(b)(3) and 1.125. It is noted that this submission did not contain an amendment directing the entry of the substitute specification (as is required by 37 C.F.R. § 1.121(b)(3)(i)), however a statement pertaining to the lack of new matter has been located on the paper entitled "RESPONSE TO NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)."

The holding of abandonment cannot be withdrawn however, as **none of the aforementioned responses was both timely and in compliance with the requirements of the respective Office communication.**

The record does not support a finding that the holding of abandonment should be withdrawn. As such, this renewed petition must be dismissed.

<u>The petition pursuant to 37 C.F.R. § 1.137(b)</u>:

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay.

As requirements (2) and (3) of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[2] In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(a)(1) (*i.e.*, an amendment directing the entry of the substitute specification, as is required by 37 C.F.R. § 1.121(b)(3)(i)).[3]

On renewed petition, Petition should submit the amendment directing the entry of the substitute specification filed on May 13, 2008 on a separate sheet of paper.

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 for any Renewed Petition Under 37 C.F.R. § 1.137(b), but are not permitted for any Second Renewed Petition Under 37 C.F.R. § 1.181(a). The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. § 1.181(a) and/or Renewed Petition Under 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The submission should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be

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1 See Rule 1.137(d).
2 See MPEP § 711.03(c).
3 Applicant will note that the request to enter the preveniently submitted substitute specification contained in the final paragraph of the "Request for Reconsideration" cannot be entered, as it is a part of the petition. See 37 C.F.R. § 1.4(c).

submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Applicant 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, Applicant is reminded that no telephone discussion may be controlling or considered authority for Applicant's further action(s).

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Paper No.

Attn: Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville NY 11747

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	DECISION ON SECOND RENEWED
Paul Generowicz et al.	:	PETITION UNDER 37 C.F.R.
Application No. 11/985,075	:	§ 1.181 AND RENEWED PETITION
Filed: November 13, 2007	:	UNDER 37 C.F.R. § 1.137(B)
Title: WINDOW LOCK KEEPER	:	

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. § 1.181(a)," filed on June 26, 2009, which is being treated as both a second renewed petition under 37 C.F.R. § 1.181 and a renewed petition under 37 C.F.R. § 1.137(b).

The second renewed petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED**.

The renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts, mailed December 12, 2007, which set a shortened statutory period for reply of two months. A response was filed on February 14, 2008 (along with a certificate of mailing dated February 12, 2008) containing, *inter alia*, a preliminary amendment. A first notice of incomplete reply was mailed on March 7, 2008, which did not extend the period for response set by the Notice of Missing Parts. A response was received on March 28, 2008, and a second notice of incomplete reply was mailed on April 11, 2008, which did not extend the period for response set by the Notice of Missing Parts. A substitute specification was received on May 15, 2008. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-

identified application became abandoned on February 13, 2008. A notice of abandonment was mailed on February 2, 2009.

PROCEDURAL HISTORY AND ANALYSES

Regarding the second renewed petition pursuant to 37 C.F.R. § 1.181:

An original petition pursuant to 37 C.F.R. § 1.181 was filed on February 19, 2009, and was dismissed via the mailing of a decision on March 16, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on March 30, 2009, and was dismissed via the mailing of a decision on June 15, 2009.

With this second renewed petition pursuant to 37 C.F.R. § 1.181, no new arguments have been submitted. It follows that this second renewed petition pursuant to 37 C.F.R. § 1.181 is again dismissed.

Regarding the renewed petition pursuant to 37 C.F.R. § 1.137(b):

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on March 30, 2009 along with the petition fee and the proper statement of unintentional delay. The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on June 15, 2009, which indicated that requirements (2) and (3) of Rule 1.137(b) had been satisfied,

and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

With this renewed petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has included an acceptable amendment that directs the entry of the substitute specification filed on May 13, 2008.

It follows that the third requirement of Rule 1.137(b) has been satisfied.

CONCLUSION

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

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

The 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

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/985,079	11/13/2007	Kei Matsubayashi	SONYJP 3.0-1507	5848

7590 09/09/2009
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/09/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 09/11/2009 NFARMER
04/25/2008 LTRUONG 00000050 121095 11985079
02 FC:1111 510.00 CR
05 FC:1201 1260.00 CR

FORM PET651G (Rev. 08/07)

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/985,093	11/14/2007	Jun-Weon Song	SDIYPL.173AUS	6913

7590 11/02/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
11/02/2009	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: 10/30/2009 NFARMER
11/15/2007 RMEBRAHT 00000004 11985093
02 FC:1111 -510.00 OP
04 FC:1202 -50.00 OP

FORM PET651G (Rev. 08/07)

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHERSKOV & FLAYNIK
THE CIVIC OPERA BUILDING
20 NORTH WACKER DRIVE,
SUITE 1447
CHICAGO, IL 60606

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FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Burton KOZAK	:	
Application No. 11/985,099	:	DECISION ON PETITION
Filed: November 14, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 0052.01327 CIP 2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's driver license. Accordingly, the above-identified application has been accorded "special" status.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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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Robert D. Varitz, P.C.
4915 SE 33rd Place
Portland, OR 97202

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NOV 04 2008

OFFICE OF PETITIONS

In re Application of
Michael J. King et al.
Application No. 11/985,143
Filed: November 13, 2007
Attorney Docket No. J-ABAC.1001

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 6, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Jon M. Dickinson on behalf of all attorneys/agents associated with customer number 56703. All attorneys/agents associated with customer number 56703 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Abacast, Inc.
P.O. Box 794
Washougal, WA 98671

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
11/985,143	11/13/2007	Michael J. King	J-ABAC.1001

CONFIRMATION NO. 7117

POWER OF ATTORNEY NOTICE

56703
ROBERT D. VARITZ, P.C.
4915 SE 33RD PLACE
PORTLAND, OR 97202

OC000000032934668

Date Mailed: 11/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/06/2008.

- 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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OFFICE OF PETITIONS

J.C. Patents
Suite 250
4 Venture
Irvine CA 92618

In re Application of Ling-Hung Yu, Ying-Chih Lu, Chun-Yi Lee, Chi-Tsung Chang, Meng-Hua Cheng and Chun-Lung Wu Application No.11/985,149 Filed: November 13, 2007 Attorney Docket No. JCLA25446 Title of Invention: Method For Executing Power on self Test on A Computer System and Updating Smbios Information Partially	DECISION GRANTING PETITION UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed November 13, 2007.

Petitioner has shown that non-signing inventors Lee and Cheng have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventors' last known addresses. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

The Office is in receipt of $130.00 towards the $200.00 petition fee. Accordingly, pursuant to petitioner's request deposit account no. 50-0710 will be charged the $70.00 difference.

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.

After this decision is mailed, the application will be forwarded to the Office of Patent

Application Processing for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Chun-Yi Lee
No. 33, Lane 1 Shanying Road
Gueishan Township, Taoyuan County
Taiwan, ROC
Airmail

In re Application of :
Ling-Hung Yu, Ying-Chih Lu, Chun-Yi Lee, Chi-Tsung Chang, Meng-Hua Cheng and Chun-Lung Wu : LETTER
Application No.11/985,149
Filed: November 13, 2007
Attorney Docket No. JCLA25446
Title of Invention: Method For Executing Power on self Test on A Computer System and Updating Smbios Information Partially

Dear Mr. Lee:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as a joint 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 Petitions Attorney Charlema R. Grant at (571) 272-3215. 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).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

J.C. Patents
Suite 250
4 Venture
Irvine CA 92618
ATTN: Jiawei Huang

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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OFFICE OF PETITIONS

Meng-Hau Cheng
No. 12, Lane 109 Jioufen Road
Yongjing Township, Jhanghua County
Taiwan, ROC
Airmail

In re Application of
Ling-Hung Yu, Ying-Chih Lu, Chun-Yi Lee, Chi-Tsung Chang, Meng-Hua Cheng and Chun-Lung Wu
Application No.11/985,149
Filed: November 13, 2007
Attorney Docket No. JCLA25446
Title of Invention: Method For Executing Power on self Test on A Computer System and Updating Smbios Information Partially

: LETTER

Dear Mr. Cheng:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as a joint 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 Petitions Attorney Charlema R. Grant at (571) 272-3215. 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).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

J.C. Patents
Suite 250
4 Venture
Irvine CA 92618
ATTN: Jiawei Huang

UNITED STATES PATENT AND TRADEMARK OFFICE

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TY UNG
16830 VENTURA BLVD.
SUITE 360
ENCINO CA 91436

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JUL 24 2008

In re Application of :
CALLAWAY, Patrick M. :
Application No. 11/985,177 : DECISION ON PETITION
Filed: November 13, 2007 : TO WITHDRAW
Attorney Docket No. **22693-003** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **(no longer with firm),** does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PATEL & ALUMIT PC**
16830 VENTURA BLVD., SUITE 360
ENCINO, CA 91436

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUITE 360
ENCINO CA 91436

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JUL 24 2008

In re Application of

JUSTIN, William
Application No. 11/985,178
Filed: November 13, 2007
Attorney Docket No. **22318-003**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **(no longer with firm),** does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PATEL & ALUMIT PC**
16830 VENTURA BLVD., SUITE 360
ENCINO, CA 91436

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT D. VARITZ, P.C.
4915 SE 33RD PLACE
PORTLAND OR 97202

MAILED
JUN 14 2010
OFFICE OF PETITIONS

In re Application of
C. Meckel, et al.
Application No. 11/985,194
Filed: November 13, 2007
Attorney Docket No. J-MCKL.1001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed April 29, 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 non-final Office action mailed September 16, 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 December 17, 2009. A Notice of Abandonment was mailed on March 31, 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

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 non-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 the aforementioned statements and provide a master docket for the firm that shows all replies docketed for a date three months from the mail date of the non-final Office action. 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.

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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.

mail date of the nonreceived Office action as required by MPEP 711.03(c) cited above. The renewed petition must be accompanied by the portion of the master requested.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner's request for a refund of the petition fee is noted but cannot be granted. Petitioner will note that a requirement for a successful petition under 37 CFR 1.137(a) is payment of the petition fee. Without the fee, the petition would be summarily dismissed without consideration on the merits. Further, petitioner had the option of filing a petition to withdraw the holding of abandonment under 37 CFR 1.181 which has no fee. See MPEP 711.03(c). Petitioner chose to file a petition under 37 CFR 1.137(a), however, which requires payment of the petition fee. It is not appropriate to refund the petition fee as the petition under 37 CFR 1.137(a) has been considered on merits and petitioner has received a decision. The request for refund of the petition fee is dismissed, accordingly.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 25 2008

OFFICE OF PETITIONS

JAMES D. PETRUZZI
4900 WOODWAY SUITE 745
HOUSTON, TX 77056

In re Application of
Braekman, George, and Lieber
Application No. 11/985,209
Filed: November 14, 2007
For: Methods and Apparatus for a Digital Music, Video, and Data Player and Business Method of Marketing Music and Video Through a Branded Data Storage Device

Decision Refusing to Accord Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 17, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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).

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

Petitioner has only attempted to send correspondence to the non-signing inventor by email. Petitioner has failed to prove either email address is a current and valid address. Petitioner has not shown petitioner is unable to send a copy of the application, declaration, and other papers to the mailing address for the non-signing inventor. Therefore, the absence of a response from the non-signing inventor to the emails will not be construed as constructive refusal.

Petitioner has failed to indicate the emails included a copy of the application. Office policy requires a copy of an application be presented to an inventor in order to establish refusal to sign a declaration. Petitioner must establish the inventor was able to sign the declaration, but refused to sign the declaration. An inventor is unable to sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. In addition, until an inventor reviews the papers and reads the specification and claims, an inventor cannot know if he or she is actually an inventor of the claimed invention.

Petitioner should mail a copy of the application to the inventor along with instructions setting a deadline for the return of a signed declaration. The letter to the inventor should state that, if petitioner receives no reply from the inventor, petitioner will interpret the lack of reply as a refusal to sign the declaration. This sort of ultimatum lends support to a finding of refusal by conduct when a response is not received from an inventor. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

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

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AUG 2 5 2008

OFFICE OF PETITIONS

JAMES D. PETRUZZI
4900 WOODWAY SUITE 745
HOUSTON, TX 77056

In re Application of
Braekman, George, and Lieber
Application No. 11/985,209
Filed: November 14, 2007
For: Methods and Apparatus for a Digital Music, Video, and Data Player and Business Method of Marketing Music and Video Through a Branded Data Storage Device

Decision According Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 20, 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
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Ihor Bohdan Rybak	:	DECISION REFUSING STATUS
Application No. 11/985,255	:	UNDER 37 CFR 1.47(b)
Filed: November 13, 2007	:	
Attorney Docket No. 14132/173301	:	

This is in response to the "Petition Under 37 CFR 1.47(b), filed May 15, 2008.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

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

Applicant lacks item (1) set forth above.

As to item (1), petitioner has failed to establish that inventor Rybak or his legal representative V.Edward Formisano refused to execute the application papers. Applicant will need to establish a copy of the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor or his legal representative and he refused to sign the application papers. To the extent the papers were presented a statement to that effect should be presented.

The submission and recordation of the restrictive agreement is acceptable to establish proof of proprietary interest but does not take the place of an assignment.

> Assignment of patent must be in writing, and writing must show clear and unmistakable intent to transfer ownership and **must be executed by patentee** or by patentee's assigns or legal representatives (emphasis added).

While a valid assignment need not be executed under seal, the assignment must be executed. Gottfried v. Miller, 104 U.S. 521, 26 L.Ed. 851, 1882 C.D. 120.

An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee. See, Arachnid, Inc. v. Merit Industries, Inc. 939 F.2d 1574, 1580, 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

The power of attorney by assignee filed concurrently with the instant petition is unacceptable for the reasons stated above.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: IP PATENT DOCKETING
KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK, NY 10022-6030

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IP Patent Docketing
K&L GATES LLP
599 Lexington Avenue
33rd Floor
New York NY 10022-6030

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DEC 1 5 2008

OFFICE OF PETITIONS

In re Application of
Ihor Bohdan Rybak
Application No. 11/985,255
Filed: November 13, 2007
Attorney Docket No. 14132/17301

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(b)

Papers filed on August 21, 2008 in response to a "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," mailed June 19, 2008, included a Declaration signed by a previously non-signing inventor, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE CA 94086

MAILED
JUN 18 2010
OFFICE OF PETITIONS

In re Application of	:
Byrne et al.	:
Application No. 11/985262	: DECISION ON PETITION
Filed: 11/13/2007	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. AUB-00802	:

This is a decision on the Petition to Claim Benefit Under 35 U.S.C. 119(e) of Prior Filed Provisional Application, filed March 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet. The petition is properly treated under 37 CFR 1.78(a)(6).

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 119 and 37 CFR 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)(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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 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 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 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. 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 1618 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Christopher Bottorff
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
11/985,262	11/13/2007	1618	580	AUB-00802	20	3

CONFIRMATION NO. 8066

CORRECTED FILING RECEIPT

28960
HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

OC000000042024453

Date Mailed: 06/10/2010

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

Applicant(s)

Mark E. Byrne, Auburn, AL;
Allison Collins, Mobile, AL;
Asa D. Vaughan, Hurtsboro, AL;
Siddarth Venkatesh, Auburn, AL;

Power of Attorney:
Thomas Haverstock--32571
Jonathan Owens--37902
David Hill--44153

Domestic Priority data as claimed by applicant

This application is a CIP of 11/346,770 02/03/2006
which claims benefit of 60/692,049 06/17/2005
and claims benefit of 60/736,140 11/10/2005
and claims benefit of 60/650,450 02/04/2005
This application 11/985,262
claims benefit of 60/858,584 11/13/2006

Foreign Applications

If Required, Foreign Filing License Granted: 12/07/2007
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/985,262**
Projected Publication Date: Not Applicable
Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Therapeutic contact lenses with anti-fungal delivery

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 17 2010

OFFICE OF PETITIONS

THORPE, NORTH & WESTERN, LLP
P.O. BOX 1219
SANDY UT 84091-1219

In re Application of	:	
Stephen C. JACOBSEN	:	
Application No. 11/985,323	:	DECISION ON PETITION
Filed: November 13, 2007	:	
Attorney Docket No. 2865-25455.NP	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 4, 2010, which set a statutory period for reply of **three (3) months**. Accordingly, the application became abandoned on May 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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 processing into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

05 DEC 2007

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

In re Application of RESCHKE et al	:	
U.S. Application No.: 11/985,358	:	
PCT Application No.: PCT/EP2006/000741	:	DECISION
Int. Filing Date: 28 January 2006	:	
Priority Date Claimed: 04 February 2005	:	
Attorney Docket No.: 410002-466CON	:	
For: FILM GUIDE FOR AN EMBOSSING DEVICE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 14 November 2007.

BACKGROUND

On 28 January 2006, applicant filed international application PCT/EP2006/000741, which claimed priority of an earlier Germany application filed 04 February 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 10 August 2006. The thirty-month period for paying the basic national fee in the United States expired on 04 August 2007.

International application PCT/EP2006/000741 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 November 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

International application PCT/EP2006/000741 is being revived for purposes of continuity only and since continuity has been established by this decision, international application PCT/EP2006/000741 is again abandoned as to the United States in favor of the continuation application submitted with the present petition.

This application is being forwarded to the Office of Initial Patent Examination for processing as a continuation application under 35 U.S.C. 111(a).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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COMMISSIONER FOR PATENTS
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

MAY 15 2009

OFFICE OF PETITIONS

Applicant: McMorrow, Robert J.
Appl. No.: 11/985,369
Filing Date: November 15, 2007
Title: AMPLIFYING PUSLES OF DIFFERENT DUTY CYCLES
Attorney Docket: S1625.70003US00
Pub. No.: US 2008/0116971 A1
Pub. Date: May 22, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 28, 2008 for the above-identified application.

The request is 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 "Pulses" is misprinted as "Pusles" in the title of the invention.

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 is stated to be that "Pulses" is misprinted as "Pusles" in the title of the invention. The error noted by requestor with respect to the title is <u>not</u> an Office error. The application data sheet originally filed by applicant on November 15, 2007, contained "Pusles" in the title. The filing receipt mailed by the Office on December 12, 2007 also reflected this spelling, requested applicant to verify the accuracy of the data on the receipt, and informed applicant of the procedure for correction of errors. Applicant is directed to that receipt for the procedure for correction of the spelling in the title.

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

Furthermore, such an error would not be a not material error under 37 CFR 1.221. The misspelling in the title 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.

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

Applicants' request for a corrected patent application publication on June 27, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

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

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

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

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

JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH, GA 30096

Mail Date: 05/24/2010

Applicant	: Zhihua Jiang	: DECISION ON REQUEST FOR
Patent Number	: 7662567	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/985,453	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

Applicant: McMorrow
Appl. No.: 11/985,468
Filing Date: November 15, 2007
Title: PULSE AMPLIFIER
Attorney Docket No.: S1625.70001US01
Pub. No.: US 2008/0116974 A1
Pub. Date: May 22, 2008

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OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 27, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, comprising instances in which the word "bypass" is misprinted as "by pass".

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 in the publication may be an Office error, but it is not a material Office error under 37 CFR 1.221. The ability of the public to appreciate the technical disclosure of the publication is not diminished by the printing of "by pass" rather than "bypass", as there is no relevant difference in meaning.

The error is not a material Office error because the typographical error does not affect the understanding of the publication. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine

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

the 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. A member of the public can understand the claim from the specification and remaining claims.

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

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D.A.N CHASE
CHASE LAW FIRM, L.C.
800 W. 47TH STREET
SUITE 401
KANSAS CITY, MO 64112

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OFFICE OF PETITIONS

In re Application of	:	
Tom Campbell, et al.	:	
Application No. 11/985,493	:	ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. TC/AS-CIP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed December 19, 2007 The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2008.

A 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).

A review of the records also shows that petitioner filed drawings on February 25, 2008. The drawings failed to comply with the requirements of 37 CFR 1.84 and 37 CFR 1.121(d). A Notice of Incomplete Reply (Non-Provisional) (Notice) was mailed March 6, 2008 that set a response period to continue to run from the mailing of the original Notice of December 19, 2007.

The drawings fail to comply with the requirement of 37 CFR 1.84(d) which states:

Drawings: One or more application drawings shall be amended in the following manner: Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the top margin, labeled "**Replacement Sheet**". Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended. Any new sheet of drawings containing an additional figure must be labeled in the top margin as "New Sheet". All changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper.

(1) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be included. The marked-up copy must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change to the drawings.

(2) A marked-up copy of any amended drawing figure, including annotations indicating the changes made, must be provided when required by the examiner.

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.

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) 272-1642

April M. Wise
Petitions Examiner
Office of Petitions

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CHASE LAW FIRM, L.C.
800 W. 47TH STREET
SUITE 401
KANSAS CITY, MO 64112

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Tom Campbell, et al.	:	
Application No. 11/985,493	:	DECISION ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. TC/AS-CIP	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed December 19, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment with drawings, (2) the petition fee of $80, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. all other inquiries concerning the examination or status of this application should be directed to the Office of Patent Application Papers at their hotline 571-272-4000.

This application is being referred to the Office of Patent Application Papers for pre-examination processing of the reply received May 1, 2009.

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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Christian Heichel	: DECISION ON REQUEST FOR
Patent Number	: 7598640	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/985,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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MARK D. BOWEN, ESQ.
MALIN HALEY DIMAGGIO BOWEN & LHOTA, P.A.
1936 S. ANDREWS AVENUE
FT. LAUDERDALE, FL 33316

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Lueders	:	
Application No. 11/985,571	:	ON PETITION
Filed: November 15, 2007	:	
Attorney Docket No. 5676.001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2008, to revive the above-identified application.

This application became abandoned for failure to file a response to the Notice to File Missing Parts of Non-provisional Application mailed December 18, 2007. A Notice of Abandonment was mailed on August 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $165 for the filing fee, $270 for the search fee, $110 for the examination fee, $65 for the surcharge and two sheets of replacement drawings containing Figures 1-6; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on December 17, 2008 has been entered and made of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Maarten Rutgers :
Application No. 11/985,597 :
Filed: November 15, 2007 :
Attorney Docket No. 1483-0016001 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 12, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on February 13, 2008. A Notice of Abandonment was mailed August 21, 2008.

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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a declaration, substitute specification, replacement drawings and surcharge of $65, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on October 3, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account as authorized.

Further, the Power of Attorney filed October 3, 2008, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

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

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed October 3, 2008.

Telephone inquires related to this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

cc: HWA C. LEE
FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CALIFORNIA 92130

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
11/985,597	11/15/2007	Maarten Rutgers	

CONFIRMATION NO. 9640

POA ACCEPTANCE LETTER

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000033547868

Date Mailed: 12/11/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2008.

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

/atkelley/

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

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Paper No.

Peter A. Shaddock II
Bowman Green
Hampton & Kelly, PLLC
Suite 201
501 Independence Parkway
Chesapeake VA 23320

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NOV 03 2008

OFFICE OF PETITIONS

In re Application of Roberta Kincaid, Thomas Gregory John Proc, Birten Todd Eric Yeates, Clifton Cook and Thomas Marx Application No. 11/985,659 Filed: November 16, 2007 Attorney Docket No. 729-210	DECISION ACCORDING STATUS UNDER 37 C.F.R. § 1.47(a)

This is in response to the STATEMENT AND PETITION REGARDING JOINT INVENTOR'S REFUSAL TO SIGN DECLARATION filed April 10, 2008. This decision is made in light of the supplement to petition filed October 28, 2008, including the fee deficiency of $70.

The petition is **GRANTED**.

The above-identified application was filed on November 16, 2007, without an executed oath or declaration. Accordingly, on December 12, 2007, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and the surcharge for its late filing. (In addition, this Notice required submission of replacement drawings). This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition, made timely by an accompanying petition and fee for extension of time within

the second month. The petition, in consideration of the fee deficiency submitted October 28, 2008, included payment of the petition fee and submission of the replacement drawings.

The petition includes a declaration executed by joint inventors Kincaid, Gregory, Todd, Yeates, Cook and Marx on behalf of themselves and on behalf of non-signing inventor Proc. Applicants assert that status under 1.47(a) is proper because joint inventor Proc refuses to join in the application. On petition, patent attorney Shaddock states that all of the application papers were presented to inventor Proc by United States Postal Service Priority Mail on March 3, 2008. Further, attorney Shaddock states that on March 20, 2008 via email to himself (and to the president of the assignee company), inventor Proc confirmed receipt of the documents and refused to executed said documents. The petition should have included a company of the email. Nonetheless, patent attorney's Shaddock statement, pursuant to 37 CFR 10.18, is accepted as sufficient to establish inventor Proc's refusal to join in the application after having been presented with the application papers.

The declaration filed April 10, 2008, has been reviewed and found in compliance with § 1.63. The petition fee of $200 has been charged to a credit card. The petition includes the last known address of inventor Proc.

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JOHN PROC
14023 Madison Avenue
Manhattan, MT 59741

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OFFICE OF PETITIONS

In re Application of :
Roberta Kincaid, Thomas Gregory :
John Proc, Birten Todd :
Eric Yeates, Clifton Cook : LETTER
and Thomas Marx :
Application No. 11/985,659 :
Filed: November 16, 2007 :
Attorney Docket No. 729-210 :

Dear Mr. Proc:

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

Peter A. Shaddock II
Bowman Green
Hampton & Kelly, PLLC
Suite 201
501 Independence Parkway
Chesapeake VA 23320

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OFFICE OF PETITIONS

In re Application of

JUSTIN, William
Application No. 11/985,689
Filed: November 15, 2007
Attorney Docket No. **22318-004**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **(no longer with firm)**, does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PATEL & ALUMIT PC**
16830 VENTURA BLVD.
SUITE 360
ENCINO, CA 91436

UNITED STATES PATENT AND TRADEMARK OFFICE

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F. EUGENE LOGAN
LAW OFFICE OF F. EUGENE LOGAN
SUITE 201
202 FASHION LANE
TUSTIN, CA 92780

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JUL 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Stephen A. Carnes	:	DECISION ON PETITION
Application No. 11/985,698	:	TO WITHDRAW
Filed: November 16, 2007	:	FROM RECORD
Attorney Docket No. 980	:	

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 27, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 F. Eugene Logan, on behalf of all practitioners of record.

F. Eugene Logan has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to Alicia Kelley at (571) 272-6059. 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: STEPHEN A. CARNES
9555 SVL BOX 13620 HIDDEN VALLEY
VICTORVILLE, CA 92395

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Oskar Torno	: DECISION ON REQUEST FOR
Patent Number	: 7630825	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/985,700	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **41** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH, PA 15143

In re Application of :
Michael S. METTLER et al. :
Application No. 1~~1/565,515~~ **11/985726** :
Filed: November 30, 2006 :
Attorney Docket No. **RPS920061036US1** :
(710.027)

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and

ON PETITION

In re Application of :
Michael S. METTLER et al. :
Application No. 11/985,726 :
Filed: February 7, 2007 :
Attorney Docket No. :

This is a decision on the petition filed October 1, 2007, requesting that application number 11/565,515 be accorded a filing date of November 30, 2006, or in the alternative, February 8, 2007, and that a foreign filing license be granted for the same application[1]. The petition is being treated under 37 CFR 1.182[2].

On November 30, 2006, application number 11/565,515 (the '565 application) was filed via EFS-Web. On January 23, 2007, the Office of Patent Application Processing (OPAP)[3] mailed a

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[1] 1.4 *Nature of correspondence and signature requirements*

(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subject.

[2] 1.182 *Questions not specifically provided for*

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).

[3] Formerly the Office of Initial Patent Examination (OIPE).

Notice to File Missing Parts of Nonprovisional Application (Filing Date Granted), stating that the application had been accorded a filing date of November 30, 2006, and advising petitioners that the statutory basic filing fee was omitted and that the oath or declaration was unsigned.

In response, on February 7, 2007, petitioners filed 12 new pages of written description or specification, five new pages of claims, one new page of abstract of the disclosure, three new figures of informal drawings, and a new, unexecuted oath or declaration. Petitioners explained that at the time of filing the '565 application, the wrong documents were associated with the application and submitted the new documents as the "correct" parts of the application.

A request for corrected filing receipt, filed March 22, 2007, sought to correct both the title of the invention and the attorney docket number consistent with the new documents, filed February 7, 2007.

The instant petition, filed October 1, 2007, states that the materials appearing in the Image File Wrapper dated November 30, 2006 are a portion of a different application, filed just prior to the instant application, also by EFS-Web. Petitioners assert that while preparing a response to the Notice to File Missing Parts of Nonprovisional Application (Filing date Granted) it was discovered that the wrong papers were submitted at the time of filing. Accordingly, petitioners submitted the "correct" application papers on February 7, 2007[4] in response to the Notice mailed January 23, 2007.

Petitioners speculate that the cache on petitioners' computer from the filing of the first-filed application may not have been cleared. This may have resulted in the submission of documents upon filing that belonged to a different application and were not intended to form part of the instant application.

37 CFR 1.53(b) states, in pertinent part:

> "...The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date."

Inasmuch as the papers filed on February 7, 2007 in response to the Notice to File Missing Parts of Nonprovisional Application (Filing Date Granted) include subject matter not present upon filing of the '565 application on November 30, 2006, and are in fact a new application *in toto*, the requested filing date of November 30, 2006 cannot be accorded to these documents.

The application papers filed November 30, 2006 were complete within the regulations and statutes for purposes of obtaining a filing date for the '565 application. Accordingly, there was

[4] Petitioners request that the instant application be accorded a filing date of February 8, 2007; however, inspection of the record reveals that the "correct" application papers were received by the USPTO on February 7, 2007 via EFS-Web rather than February 8, 2007.

no error in the USPTO according those papers a filing date of November 30, 2006, and as such there is no basis given or apparent for now moving the filing date of the '565 application back to February 7, 2007.

The petition is **DISMISSED** to the extent that the papers received February 7, 2007, be accorded a filing date of November 30, 2006, the filing date of the '565 application. The petition is **GRANTED** to the extent that a separate application bearing application number 11/985,726 has been created using the papers filed February 7, 2007, and will be accorded a filing date of February 7, 2007.

The petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office or its electronic filing system.

This matter is being referred to OPAP for further processing of application number 11/985,726 with a filing date of February 7, 2007, using the 12 pages of written description or specification, five pages of claims, one page of abstract of the disclosure, three figures of informal drawings and the oath filed on even date.

The petition for foreign filing license submitted under separate cover on October 3, 2007 and resubmitted on October 26, 2007, has been referred to Licensing and Review for treatment.

Future correspondence pertaining to application number 11/985,726 must be captioned under 37 CFR 1.4(b) for that application.

Any inquiries related to this decision should be directed to BethAnne Dayoan at (571) 272-3209.

Brian Hearn
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Richard M. Rosati, Esp.
Kenyon & Kenyon LLP
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Kazuya Nishimura	: DECISION ON REQUEST FOR
Patent Number	: 7605987	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/985,735	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **75** 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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PCE INDUSTRY, INC.
ATT. STEVEN REISS
458 E. LAMBERT ROAD
FULLERTON CA 92835

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Tai-Jun Liu et al	:	
Application No. 11/985,744	:	DECISION ON PETITION
Filed: November 16, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. US16957	:	

This is a decision on the petition under 37 CFR 1.55(c), filed April 1, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign China Application No.200410051681.0, filed September 24, 2004.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be 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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	11/985,744
Confirmation No.	:	8997
Applicant	:	Liu, Tai-Jun et al.
Attorney Docket No.	:	US16957
Customer No.	:	54000
Application Filing Date	:	November 16, 2007
Examiner	:	Robert John Sandy
Art Unit	:	3677

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300

Signed: Steven M. Reiss Date: 4/1/09

Mail Stop Amendment
Commissioner for Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION TO ACCEPT LATE CLAIM OF PRIORITY UNDER #& CFR 1.55(c)

Sir:

By this petition, Applicant desires to claim priority under 35 USC 119(a)-(d) for China Patent Application No. 200410051681.0, filed 9/24/2004 ("the China application)." While the parent to this application (US Serial No. 11/136,787, filed May 25, 2005) properly claimed 119 priority to the China application, this application did not. This was unintentional and only just noticed as applicant prepared their response to the Office Action of January 5, 2009.

As required by the rules, the fee under 1.17(t) of $1410, should be deducted from Applicant's deposit account (503789) and Applicant affirms that 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.

Furthermore, because a certified copy of the China application was filed in the parent application to this application, on May 25, 2005, a certified copy need not be provided in this application (MPEP 201.14(b) II. It should also be noted that a certified translation of the China application was filed in the parent on April 10, 2007.

Respectfully,

Liu, Tai-Jun et al.

By _____

Steven M. Reiss
Registration No.: 37,519
Customer No. 54,000
PCE Industry, Inc.
458 E. Lambert Road
Fullerton, CA 92835
Tel No.: (714) 626-1350
Fax No.: (714) 738-4649

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PCE INDUSTRY, INC.
ATT. STEVEN REISS
458 E. LAMBERT ROAD
FULLERTON CA 92835

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AUG 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Tai-Jun Liu et al	:	
Application No. 11/985,744	:	DECISION ON PETITION
Filed: November 16, 2007	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. US16957	:	

This is a decision on the supplemental petition under 37 CFR 1.55(c), filed July 1, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign China Application No.200410051681.0, filed September 24, 2004.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above.

The Office is in receipt of the Application Data Sheet (ADS) submitted on July 1, 2009. However, the ADS is not signed. Note 37 CFR 1.33 and 10.18. A copy of a blank ADS is enclosed for your convenience.

Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
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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

Enclosure: Blank copy of form PTO/SB/14

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PCE INDUSTRY, INC.
ATT. STEVEN REISS
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY CA 91789

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OCT 01 2009

OFFICE OF PETITIONS

In re Application of
Tai-Jun Liu et al
Application No. 11/985,744
Filed: November 16, 2007
Attorney Docket No. US16957

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed August 31, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign China Application No. 200410051681.0, filed September 24, 2004.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

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

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (5) above. In this regard, the benefit claim to Application No. 11/136,787 must be perfected in the above application to make the benefit claim to the foreign application proper.

In view of the above, a renewed petition under 37 CFR 1.55(c), together with a petition under 37 CFR 1.78(a), to include the benefit claim to Application No. 11/136,787, must be satisfied if applicant desires to claim priority to the foreign application noted in the petition.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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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

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ATT. STEVEN REISS
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY CA 91789

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OFFICE OF PETITIONS

In re Application of	:	
Tai-Jun Liu et al	:	
Application No. 11/985,744	:	DECISION ON PETITIONS
Filed: November 16, 2007	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. US16957	:	AND 37 CFR 1.55(c)

This is a decision on the renewed petition filed October 26, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed Application Data Sheet (ADS), respectively.

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

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

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

The unintentional statement provided in the above petition is being construed as the required statement under 37 CFR 1.78(a)(2)(ii). If this is an incorrect interpretation, petitioner should notify the Office in writing.

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

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

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

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

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 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 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 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 referred to Technology Center Art Unit 3677 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120, and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

/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
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
11/985,744	11/16/2007	3677	1030	US16957	17	3

CONFIRMATION NO. 8997

CORRECTED FILING RECEIPT

54000
PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

OC000000039009738

Date Mailed: 11/30/2009

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)

Tai-Jun Liu, Shenzhen, CHINA;
Rui-Hao Chen, Shenzhen, CHINA;
Gang Yang, Shenzhen, CHINA;
Shui-Yuan Qin, Shenzhen, CHINA;
Hsiao-Hua Tu, Shindian, TAIWAN;
Chia-Hua Chen, Shindian, TAIWAN;

Assignment For Published Patent Application

SHENZHEN FUTAIHONG PRECISION INDUSTRY CO., LTD.
SUTECH TRADING LIMITED

Power of Attorney: The patent practitioners associated with Customer Number 54000

Domestic Priority data as claimed by applicant

This application is a CON of 11/136,787 05/25/2005 PAT 7,334,294

Foreign Applications

CHINA 200410051681.0 09/24/2004

If Required, Foreign Filing License Granted: 12/11/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/985,744**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Hinge and foldable electronics device using the hinge

Preliminary Class

016

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

HENRY TIEN LO
3609 MELONIES DR./ #96
LAS VEGAS NV 89103

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Lo	:	
Application No. 11/985,746	:	DECISION
Filed/Deposited: 16 November, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 26 November, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

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."

Petitioner's alternative is to file a petition pursuant to 37 C.F.R. §1.137(b)—copy enclosed—with fee, reply and statement of unintentional delay, as discussed below.

As to the Request to Withdraw
the Holding of Abandonment

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

Petitioner appears not to satisfy—or to be able 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 including 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 regulations at under 37 C.F.R. §1.181 further require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts (fees) (copy enclosed) mailed on 12 December, 2007, with reply due absent extension of time on or before 12 February, 2008.

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

On 20 May, 2008, Petitioner filed (via U.S. Postal Service Express Mail, Label No. EB 592076046 US of that date) a reply to the 12 December, 2007, Notice—with a copy thereof date-stamped as received from Petitioner by the Office on that date—and included therewith a check in the amount of $410.00. Petitioner neither paid extension of time fees nor authorized charges therefor against a deposit account.

The Office mailed the Notice of Abandonment on 23 October, 2008.

On 26 November, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of his averment the non-receipt of the Notice—however, as indicated above and is clear from the Office record of Petitioner's 20 May, 2008, filing, Petitioner submitted a copy of that Notice with his 20 May, 2008, filing—suggesting Petitioner's error as to the facts of the events. Moreover, as also noted above Petitioner failed to follow the guidance in the Commentary at (*see*: MPEP §711.03(c)(I)) to satisfy the mandated showings pursuant to 37 C.F.R. §1.181:

***

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

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

As noted earlier, given that Petitioner's 20 May, 2008, filing included a copy of the 12 December, 2007, Notice, it appears that Petitioner cannot satisfy the showing(s) set forth above.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

STATUTES, REGULATIONS

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

---

[1] *See*: MPEP §711.03(c) (I)(A).

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

Petitioner appears not to have made the showing required.

CONCLUSION

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

ALTERNATIVE VENUE

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

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

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

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

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

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

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

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

OIPE IAP28
MAY 2 0 2008
PATENT & TRADEMARK OFFICE

05-21-08

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/985,746	11/16/2007	Henry Tien Lo	

CONFIRMATION NO. 8985

FORMALITIES LETTER

HENRY TIEN LO
#96
3609 MELONIES DR.
LAS VEGAS, NV 89103

OC000000027195468

Date Mailed: 12/12/2007

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).

- Additional claim fees of **$410** 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 **$410** for a small entity
- Total additional claim fee(s) for this application is **$410**
  - **$210** for **2** independent claims over 3.
  - **$200** for **8** total claims over 20.

05/21/2008 HDESTA1 00000057 11985746

01 FC:2201 210.00 OP
02 FC:2202 200.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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HENRY TIEN LO
3609 MELONIES DR./ #96
LAS VEGAS NV 89103

COPY MAILED
JUN 15 2009
OFFICE OF PETITIONS

In re Application of	:	
Lo	:	
Application No. 11/985,746	:	DECISION
Filed/Deposited: 16 November, 2007	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 14 April, 2009, under the provisions of 37 C.F.R. §1.137(b), seeking revival of the application as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Missing Parts (fees) (copy enclosed) mailed on 12 December, 2007, with reply due absent extension of time on or before 12 February, 2008.

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

On 20 May, 2008, Petitioner filed (via U.S. Postal Service Express Mail, Label No. EB 592076046 US of that date) a reply to the 12 December, 2007, Notice—with a copy thereof date-stamped as received from Petitioner by the Office on that date—and included therewith a check in the amount of $410.00. Petitioner neither paid extension of time fees nor authorized charges therefor against a deposit account.

The Office mailed the Notice of Abandonment on 23 October, 2008.

On 26 November, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating the basis of his averment the non-receipt of the Notice—however, as indicated above and is clear from the Office record of Petitioner's 20 May, 2008, filing, Petitioner submitted a copy of that Notice with his 20 May, 2008, filing—suggesting Petitioner's error as to the facts of the events. Moreover, as also noted above Petitioner failed to follow the guidance in the Commentary at (*see*: MPEP §711.03(c)(I)) to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. The petition was dismissed on 27 February, 2009.

On 14 April, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of fees due previously submitted after abandonment.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

---

[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.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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

As to Allegations of
Unintentional Delay

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

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

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

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

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.

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

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.
11/985,755	11/16/2007	Jung-Suk Song	SDIYPL.193AUS	9096

7590 07/06/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
07/06/2010	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.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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.
11/985,756	11/16/2007	Hironori Kobayashi	CU-6548	9108

7590 03/17/2010

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

EXAMINER
DUDEK, JAMES A

ART UNIT	PAPER NUMBER
2871	

MAIL DATE	DELIVERY MODE
03/17/2010	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.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/16/2010 YEARMER
11/23/2007 FMARZII 00000070 191351 11985756
02 FC1111 510.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD A. RYAN
ATTORNEY AT LAW
8497 N. MILLBROOK AVENUE
SUITE 101
FRESNO CA 93720

COPY MAILED

MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Kennith Lloyd Tunnell et al.	:	
Application No. 11/985,772	:	DECISION ON PETITION
Filed: November 16, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RAR775.02	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 16, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of one of the applicant's birth certificate proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3747 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/985,815	11/16/2007	Thomas M. O'Connor	2007-0224	8961

7590 04/21/2009

Robert F. Frijouf, Esquire
Frijouf, Rust & Pyle, P. A.
201 East Davis Boulevard
Tampa, FL 33606

EXAMINER
DECADY, ALBERT

ART UNIT	PAPER NUMBER
2121	

MAIL DATE	DELIVERY MODE
04/21/2009	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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Robert F. Frijouf, Esquire
Frijouf, Rust & Pyle, P. A.
201 East Davis Boulevard
Tampa FL 33606

In re Application of:
Thomas M. O'Connor
Serial No.: 11/985,815
Filed: November 16, 2007
Docket: 2007-0224
Title: CONTROL 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 February 17, 2009 to make the above-identified application special in view of the accelerated examination procedure set forth in MPEP § 708.02(a).

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:

I. Conditions Regarding the Application:

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.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

... ...

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.

... ...

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

MPEP §708.02 states in part:

708.02 [R-6] Petition To Make Special

37 CFR 1.102. Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c) A petition to make an application special may be filed without a fee if the basis for the petition is:

(1) The applicant 's age or health; or

(2) That the invention will materially:

(i) Enhance the quality of the environment;

(ii) Contribute to the development or conservation of energy resources; or

(iii) Contribute to countering terrorism.

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

New applications ordinarily are taken up for examination in the order of their effective United States filing dates. Certain exceptions are made by way of petitions to make special, which may be granted under the conditions set forth below. Any statement in support of a petition to make special must be based on a good faith belief that the invention in fact qualifies for special status. See 37 CFR 1.56 and 10.18.

Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age.

Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below.

A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a).

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was filed at a date later than the filing date of the application, thus the petition was not filed with the application, as required above. Further, the petition and the required petition fee were not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web, nor is there a statement asserting that EFS and EFS-web were not available during the normal business hours. In addition, the petition is not accompanied by a preexamination search and accelerated examination support document, as required above. Therefore, the petiution does not comply with the requirements of MPEP § 708.02(a).

also It is noted that MPEP § 708.02 requires that a petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a). Note that any petition to make special under MPEP § 708.02, subsections V and VI was required to be filed prior to August 25, 2006.

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

Any inquiry regarding this decision should be directed to the undersigned at (571) 272-3719.

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

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Kenyon & Kenyon LLP
One Broadway
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Eiji Shirota	: DECISION ON REQUEST FOR
Patent Number	: 7593168	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/985,817	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **11** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/985,820	11/16/2007	Douglas J. Wagenaar	60906/G517	9694

23363 7590 05/06/2010
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER
KIM, KIHO

ART UNIT	PAPER NUMBER
2884	

MAIL DATE	DELIVERY MODE
05/06/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Peter C. Hsueh
Christie, Parker, & Hale, LLP
P. O. Box 0768
Pasadena, CA 91109-7068

In re Application of:	:	
Wagenaar et al.	:	DECISION ON PETITION
Serial No.: 11/985,820	:	FOR USE OF COLOR PHOTOGRAPHS
Filed: 16 November 2007	:	UNDER 37 C.F.R 1.84(a)(2) AND (b)(2)
Attorney Docket No.:**60906/G517**	:	

This is a decision in response to the petition under 37 C.F.R. 1.84(a)(2) and (b)(2) filed 16 November 2007. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth the required fee, three sets of color photographs, and the required paragraph in the Specification.

Accordingly, the color photographs are accepted as formal drawings in the above-referenced application.

David P. Porta, Supervisor
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.
11/985,848	11/16/2007	John Fredrick Shaeffer	SHFF002-US0	9181

7590 05/01/2009

PATRICK STELLITANO
2803 INRIDGE DR.
AUSTIN, TX 78745

EXAMINER

ART UNIT	PAPER NUMBER
2857	

MAIL DATE	DELIVERY MODE
05/01/2009	PAPER

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is 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 granted.

The express abandonment is recognized and the application has been withdrawn from publication.

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

Kaletus Buchanan
Patent Publication Branch
Office of Data Management

FORM PET650G (Rev. 08/07)

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of	:	
Cheol Ho OHK et al.	:	
Application No. 11/985,855	:	DECISION ON PETITION
Filed: November 16, 2007	:	
Attorney Docket No. 5294-000044	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed December 18, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 20, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of December 18, 2007 is accepted as having been unintentionally delayed.

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

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

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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13445 MANDOLI DRIVE
LOS ALTOS HILLS CA 94022

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application Number: 11/985879	:	ON PETITION
Filing Date: 04/03/2008	:	
Attorney Docket Number: Siargo-0401	:	

This is a decision on the "RESPONSE TO NOTICE OF INCOMPLETE NON-PROVISIONAL APPLICATION," filed on April 22, 2008, which is treated as a petition requesting that the above-identified application, including three (3) sheets of drawings, be accorded a filing date of April 3, 2008.

The petition is **GRANTED**.

On November 16, 2007, the application was deposited. The application papers included a transmittal letter and a preliminary amendment.

On February 20, 2008, a Notice of Incomplete Nonprovisional Application was mailed, stating that the application had not been accorded a filing date because the specification was missing. The Notice of Incomplete Nonprovisional Application further stated that the oath or declaration was missing.

On April 3, 2008, in response, a specification, including 8 pages of claims, and a declaration were deposited.

On April 18, 2008, a Notice of Incomplete Nonprovisional Application was mailed, stating that a filing date had not been accorded because the application was deposited without drawings, and that applicant should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on April 22, 2008, the present petition was filed, along with seven (7) sheets of drawings.

Petitioner argues that seven (7) drawing sheets were filed with the other application papers on April 3, 2008, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of April 3, 2008. The postcard identifies the application by application number, filing date, and the attorney's name, and acknowledges receipt of, *inter alia*, seven (7) sheets of drawings. Petitioners request that the application, including the seven (7) sheets of drawings, be accorded a filing date of April 3, 2008.

A review of the record reveals that no seven (7) sheets of drawings received on April 3, 2008, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on April 3, 2008, included seven (7) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including seven (7) sheets of drawings, is entitled to a filing date of April 3, 2008.

In view of the above, the petition is granted. No petition fee is due.

The application will be processed with the copy of the seven (7) sheets of drawings supplied on April 22, 2008, as a part of the original disclosure.

The application is being referred to the Office of Patent Application Processing for further processing with a filing date of **April 3, 2008**, using the application papers filed on that date, and the copy of seven (7) sheets of drawings supplied with the present petition, and for an indication in Office records that seven (7) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Martin Rogalla	: DECISION ON REQUEST FOR
Patent Number	: 7654788	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/985,896	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **45** 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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Yokoi & Co., U.S.A., Inc.
13700 Marina Pointe Drive #723
Marina Del Rey CA 90292

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OFFICE OF PETITIONS

In re Application of :
Aikawa :
Application No. 11/985,925 : ON PETITION
Receipt Date: November 19, 2007 :
Attorney Docket No.: P07-1034 :

This is a decision on the "PETITION FIELD UNDER 37 C.F.R. § 1.53(e)," filed January 29, 2008, requesting that the above-identified application be accorded a filing date of November 19, 2007.

The application was received November 19, 2007. On November 30, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") indicating that the application had not been accorded a filing date because the application as filed lacked a specification and did not contain at least one claim as required per accordance with 35 USC 112.

The Notice indicated that the filing date of the application would be the date of receipt of all of the omitted items and indicated that any assertions that the omitted items were submitted, or were not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $400.00 petition fee.

The Notice also 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 applicant wanted to rely on 37 CFR 1.57(a) to add inadvertently omitted material to the application, applicant must file a petition under 37 CFR 1.57(a) accompanied by the $400.00 petition fee.

Petitioner argues that the application as deposited included a 10 page specification and four pages of drawings. Petitioner has included a copy of a postcard date stamped by the USPTO on November 19, 2007.

The USPTO has annotated the postcard to indicate that the USPTO did not receive the 10 pages of specification and four sheets of drawings referenced on the postcard.

Petitioner argues "it is improbable (and in fact, far-fetched) that Applicant file all secondary documents (acknowledged by the USPTO), and completely omit filing the most important document, which is the entire specification (10 pages, including claims and abstract) and all 4 sheets of drawings."

Petitioner argues that given this "very implausible scenario," the application should be accorded a filing date of November 19, 2007 and the petition fee refunded.

Petitioner's arguments have been considered, but are not persuasive. 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, MPEP 503.

However, if the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO.

In view of the fact that the USPTO indicated on the postcard that 10 pages specification and four pages of drawings were not received, the application will not be accorded the requested filing date. Further, the petition fee will not be refunded as the filing of the petition has not been shown to have been necessitated due to a USPTO error.

If this application contains 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, petitioner may wish to consider filing a petition under 37 CFR 1.57 (a) to add inadvertently omitted material to the above-identified application. Any petition under 37 CFR 1.57(a) must be accompanied by the required petition fee.

For the reasons set forth herein, the petition is hereby **DISMISSED**.

Any request for reconsideration should be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136. If reconsideration is not requested within the time period specified above, this application will be referred to the Office of Patent Application Processing with a filing date of January 29, 2008, the date the specification and drawings were received. Should such an event occur, a newly executed oath or declaration covering the specification and drawings would be required.

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

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

By 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 related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Marina Del Rey CA 90292

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OFFICE OF PETITIONS

In re Application of :
Aikawa :
Application No. 11/985,925 :
Received: November 19, 2007 :
Attorney Docket No.: P07-1034 :

DECISION ON PETITION

This is a decision on the "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)," filed July 12, 2008. This matter is being treated as a renewed petition under 37 CFR 1.182 to reopen proceedings in this matter and accord the above-identified application a filing date of January 29, 2008, the date that the specification and claim were submitted.

The application was received November 19, 2007. On November 30, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") indicating that the application had not been accorded a filing date because the application as filed lacked a specification and did not contain at least one claim as required per accordance with 35 USC 112.

On November 19, 2007, a petition to accord the application a filing date of November 19, 2007 with entry of the missing specification and claim was filed. The petition was dismissed March 24, 2008. The decision on petition advised that any request for reconsideration of the decision should be filed within two months of the mailing date of the decision. The decision further advised that if reconsideration was not requested within two months, the application would be referred to the Office of Patent Application Processing with a filing date of January 29, 2008, the date the missing items were received. The decision further advised that if reconsideration was not sought, a newly executed oath or declaration covering the specification and drawings would be required.

Request for reconsideration was not sought. Thus, petitioners seek the later filing date of January 29, 2008. However, no oath or declaration covering the missing items has to date been received.

On June 4, 2008, a Notice of Abandonment was mailed for failure to respond to the decision on petition mailed March 24, 2008. It is noted that a Notice of Abandonment is inappropriate in this instance because the application to date has not been accorded a filing date. The proper course of action would have been to mail a Notice of Termination of Proceedings for failure to submit a supplemental oath or declaration. Accordingly, the Notice of Abandonment is hereby WITHDRAWN.

Reopening of proceedings in this matter requires the submission of a supplemental oath or declaration in compliance with 37 CFR 1.63 and1.64 referring to missing items (specification, including abstract, claim, and drawings) submitted January 29, 2008.

As no supplemental oath or declaration to date has been submitted, the petition to reopen proceedings and accord the application a filing date of January 29, 2008 is hereby **DISMISSED**.

Petitioners are given TWO MONTHS from the date of this decision to submit a renewed request to accord the application a filing date of January 29, 2008 and to submit a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the specification, including abstract, claim, and drawings which were submitted January 29, 2008. THIS TWO MONTH PERIOD IS EXTENDABLE UNDER 37 CFR 1.136(a) or (b).

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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In re Application of :
Aikawa :
Application No. 11/985,925 : DECISION ON PETITION
Filing Date: January 29, 2008 :
Attorney Docket No.: P07-1034 :

This is a decision on the "RENEWED PETITION UNDER 37 CFR § 1.182," filed October 27, 2008, to reopen proceedings and accord the above-identified application a filing date of January 29, 2008, the date that the specification and claim were submitted.

The application was received November 19, 2007. On November 30, 2007, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") indicating that the application had not been accorded a filing date because the application as filed lacked a specification and did not contain at least one claim as required per accordance with 35 USC 112.

On November 19, 2007, a petition to accord the application a filing date of November 19, 2007 with entry of the missing specification and claim was filed. The petition was dismissed March 24, 2008. The decision on petition advised that any request for reconsideration of the decision should be filed within two months of the mailing date of the decision. The decision further advised that if reconsideration was not requested within two months, the application would be referred to the Office of Patent Application Processing with a filing date of January 29, 2008, the date the missing items were received. The decision further advised that if reconsideration was not sought, a newly executed oath or declaration covering the specification and drawings would be required. Request for reconsideration was not sought. Thus, petitioners seek the later filing date of January 29, 2008. An oath or declaration covering the missing items is required. On June 4, 2008, a Notice of Abandonment was mailed for failure to respond to the decision on petition mailed March 24, 2008. The Notice of Abandonment was inappropriate because the application to date has not been accorded a filing date. The proper course of action would have been to mail a Notice of Termination of Proceedings for failure to submit a supplemental oath or declaration. Accordingly, the Notice of Abandonment is hereby WITHDRAWN. Reopening of proceedings in this matter requires the submission of a supplemental oath or declaration in compliance with 37 CFR 1.63 and1.64 referring to missing items (specification, including abstract, claim, and drawings) submitted January 29, 2008.

Petitioner has provided an executed declaration referring to the specification submitted January 29, 2008.

In view thereof, the application is hereby accorded a filing date of January 29, 2008 and proceedings are reopened.

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

This application is being forwarded to the Office of Patent Application Processing with a filing date of **JANUARY 29, 2008**, the date that the specification was filed.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

KIRSCHSTEIN, OTTINGER,
ISRAEL & SCHIFFMILLER, P.C.
425 FIFTH AVENUE
5TH FLOOR
NEW YORK NY 10016-2223

In re Application of	:	
Cush, et al.	:	
Application No.: 11/985,942	:	DECISION
Filing Date: 19 November, 2007	:	
Attorney Docket No. P/62298/CIP	:	

This is a decision on the petition filed on 7 March, 2008, under 37 C.F.R. §1.47.

The the petition as considered under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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

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

With the petition of 11 March, 2008, Petitioner appears to have made little if any effort to evidence diligence in inquiry to ascertain a reasonably believed to be last known/valid/current address (residence) for the non-signing inventor. Rather, Petitioner had a staff member send a package, and when it was returned as undeliverable, Petitioner appears not to have looked/inquired further.

Applicant lacks: demonstration of a diligent effort to ascertain last known addresses for the non-signing inventors with additional evidence thereafter that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings), as set forth above.

As to proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings): the applicable statute (35 U.S.C.§ 116) requires that a "diligent effort" have been expended in attempting to find or reach the non-signing inventor. *See* MPEP §409.03, and §409.03(a) and (e): "a *bona fide* attempt."

BACKGROUND

The record indicates:

The instant application was filed on 19 November, 2007, without, inter alia, a fully executed oath/declaration.

On 7 January, 2008 , the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration (signed and dated) was required.

On 7 March, 2008, Petitioner Alan Israel (Reg. No. 27,564) filed a petition with, *inter alia*, an oath/declaration signed by Ms. Cush (for herself and on behalf of) but not the non-signing co-inventor Nigel Wood (Mr. Wood), however, the statements of Petitioner's staff and the documents submitted indicate no diligent effort to seek/obtain last known addresses to which to transmit to the entire application (description, claims, abstract and drawings) to the non-signing inventor.

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

one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

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

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted 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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[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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ISRAEL & SCHIFFMILLER, P.C.
425 FIFTH AVENUE
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NEW YORK NY 10016-2223

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Cush, et al.	:	
Application No.: 11/985,942	:	DECISION
Filing Date: 19 November, 2007	:	
Attorney Docket No. P/62298/CIP	:	

This is a decision on the petition filed on 19 August, 2008, under 37 C.F.R. §1.47.

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

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

BACKGROUND

The record indicates:

The instant application was filed on 19 November, 2007, without, inter alia, a fully executed oath/declaration.

On 7 January, 2008 , the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration (signed and dated) was required.

On 7 March, 2008, Petitioner Alan Israel (Reg. No. 27,564) filed a petition with, *inter alia*, an oath/declaration signed by Ms. Cush (for herself and on behalf of) but not the non-signing co-inventor Nigel Wood (Mr. Wood), however, the statements of Petitioner's staff and the documents submitted indicate no diligent effort to seek/obtain last known addresses to which to transmit to the entire application (description, claims, abstract and drawings) to the non-signing inventor—and the petition was dismissed on 19 June, 2008.

On 19 August, 2008, Petitioner renewed his petition, and supplied, *inter alia,* as before the statement of Ms. Sian Jones—averred once again to be a paralegal but once again with no stated affiliation—as to her efforts to ascertain a more current/valid/reasonably believed to be last known address for Mr. Wood. Notably, once again Petitioner makes no showing as to his efforts to inquire into the matter and so demonstrate fully satisfaction of the requirement by the Office to make the statements required under the Rule or to aver Petitioner's inquiry into and satisfaction as to the accuracy of the statements in the petition and over the signature of Petitioner.

Therefore, because Petitioner has not provided his express statement to appear in the petition over his signature and registration number, it is noted that the statements are being construed as the required statements. Petitioner ***must*** *inquire into the matter to satisfy himself as to the accuracy of the previous representations submitted over the signature of a non-practitioner and* ***must*** *notify the Office if this is* ***not*** *a correct reading of the statement appearing in the petition.*

In other regards, Petitioner has satisfied (or otherwise is interpreted as having satisfied) the requirements that the entire application—description, claims, abstract and drawings—was sent to and received at the diligently ascertained last known address of the non-signing co inventor Mr. Wood, whom Petitioner was not able to locate after diligent search so failed and constructively refused to sign/join in the filing of the above-identified application. And, petitions taken together, the address of the non-signing inventor has been provided as required.

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

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

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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.

CONCLUSION

The instant petition under 37 C.F.R. §1.47(a) 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, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[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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NIGEL WOOOD
C/O PAYNTERS WOOD BUNGALOW
FINMERE ROAD
EVENLY
BRACKLEY
NORTHANTS NN13 5SB
UNITED KINGDOM

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OFFICE OF PETITIONS

In re Application of	:	
Cush, et al.	:	
Application No.: 11/985,942	:	COMMUNICATION
Filing Date: 19 November, 2007	:	
Attorney Docket No. P/62298/CIP	:	

Dear Nigel Wood:

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

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

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

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

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s) Moreover, the Office 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:
KIRSCHSTEIN, OTTINGER,
ISRAEL & SCHIFFMILLER, P.C.
425 FIFTH AVENUE
5TH FLOOR
NEW YORK NY 10016-2223

[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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EDWARD J. LYNCH, PATENT ATTORNEY
FOUR EMBARCADERO CENTER
SUITE 1700
SAN FRANCISCO CA 94111

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Paul Lubock et al.	:	
Application No. 11/985,989	:	DECISION ON PETITION
Filed: November 19, 2007	:	
Attorney Docket No. SENOP-07201	:	

This is a decision on the petition, filed December 4, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment or in the alternative under the unintentional provisions of 37 CFR 1.137(b) in the above-identified application.

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

This application was held abandoned for failure to reply to the non-final Office action mailed May 29, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, the application became abandoned on August 30, 2009.

Petitioner asserts that the Office action dated May 29, 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 nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of May 29, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $820, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3768 for appropriate action by the Examiner in the normal course of business on the reply received.

Chris Bottorff
Petitions Examiner
Office of Petitions

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Kyocera Technology Development
Intellectual Property Administration
Suite 400
1855 Gateway Blvd.
Concord CA 94520

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Lao et al. : DECISION ON PETITION
Application No. 11/986,055 :
Deposited: November 20, 2007 :
Title: Application-Based Profiles :
of Printer Driver Settings

This is a decision on the "Response to Notice of Incomplete Nonprovisional Application" filed December 17, 2007, requesting that the above-identified application be accorded the filing date of November 20, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2).

The petition is **GRANTED**.

On December 6,2007, the Office of Patent Application Processing mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without a complete specification including at least one claim pursuant to 35 U.S.C. 112. It is noted that petitioner also contends that the application papers submitted on November 20, 2007 also contained drawings.

In response, the present petition was filed on December 6, 2007. The petition contends that the application as filed contained a complete specification including at least one claim pursuit to 35 U.S.C. 112. The petition also contends that the application papers submitted on November 20, 2007 also contained drawings pursuant to 35 U.S.C.113. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of "Spec. Claims, abst (28pp) and Drawings (9 sheets)". Petitioner has also provided a copy of the claims, specification, abstract and drawings.

Applicants' postcard receipt is prima facie[1] evidence that a 28 pages of specification and 9 sheets of drawings were received on November 20, 2007, but a complete specification with at least one claim and drawings are not present in the file.

No petition fee has been provided and none is required.

Since the original pages of specification including at least one claim and drawings have not been located, the papers submitted on December 17, 2007 will be used for processing and examination purposes.

The application will be returned to the Office of Patent Application Processing for further processing with a **filing date of November 20, 2007**, using the papers submitted on that day and the copy of the specification and drawings provided on December 17, 2007.

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

Charlema Grant
Petitions Attorney
Office of Petitions

[1]A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

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MARK S. HUBERT P.C.
516 SE MORRISON- SUITE 1200
PORTLAND OR 97214

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
STRAIGHT, Ryan D.	:	
Application No. 11/986,070	:	DECISION ON PETITION
Filed: November 20, 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 September 21, 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 the request is incomplete. The request to withdrawal is missing page 2.

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/
Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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MARK S. HUBERT P.C.
516 SE MORRISON- SUITE 1200
PORTLAND OR 97214

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OFFICE OF PETITIONS

In re Application of	:	
STRAIGHT, Ryan D.	:	
Application No. 11/986,070	:	DECISION ON PETITION
Filed: 11/986,070	:	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 November 06, 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 Mark Hubert on behalf of all attorneys of record who are associated with customer No. 32211. All attorneys/agents associated with the Customer Number 32211 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 Ryan Straight at the address indicated below.

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **RYAN STRAIGHT**
4803 SW WOODSTOCK BLVD.
SUITE 505
PORTLAND OR 97206-6160

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OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of Chu et al. :
Application No. 11/986,107 :
Filing Date: November 20, 2007 :
Attorney Docket No. 178-302 CON/DIV :

Decision on Petition

This is a decision on the petition filed March 31, 2008, to accord the above-identified application a filing date of November 20, 2007.

The application was filed on November 20, 2007.

The specification filed on November 20, 2007, described drawings but no drawings were filed on November 20, 2007.

On February 8, 2008, the Office of Patent Application Processing mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

MPEP 601.01(f) states 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).

This application contains disclosure directed to a process or method. 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 other words, the Office should have mailed a "Notice of Omitted Item(s)" indicating drawings were missing but a filing date had been accorded, rather than a "Notice of Incomplete Application."

The "Notice" mailed February 8, 2008, was mailed in error and is hereby withdrawn.

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

During examination, if the examiner determines drawings are necessary under 35 USC 113, he may reconsider the filing date issue and have the Office of Patent Application Processing mail a Notice of Incomplete Application. See MPEP 601.01(f).

Since the petition under 37 CFR 1.53 is granted, consideration of the petition filed in the alternative under 37 CFR 1.57 is unnecessary.

On February 25, 2008, an amendment to add the missing drawings based on an explicit incorporation by reference in the specification. The amendment will be considered by the examiner in due course to determine if the amendment seeks entry of new matter not described in the application as filed.

Since the Notice of Incomplete Application was improper, the petition fee of $400 has not been charged to petitioner's deposit account.

The Application is being returned to the Office of Patent Application Processing for further processing with a filing date of November 20, 2008, using the application papers filed on November 20, 2008.

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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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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AUG 07 2008

In re Application of Chu et al. :
Application No. 11/986,107 : Decision on Petition
Filing Date: November 20, 2007 :
Attorney Docket No. 178-302 CON/DIV :

This is a corrected decision on the petition filed March 31, 2008, to accord the above-identified application a filing date of November 20, 2007.

The application was filed on November 20, 2007.

The specification filed on November 20, 2007, described drawings but no drawings were filed on November 20, 2007.

On February 8, 2008, the Office of Patent Application Processing mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

MPEP 601.01(f) states 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).

This application contains disclosure directed to a process or method. 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 other words, the Office should have mailed a "Notice of Omitted Item(s)" indicating drawings were missing but a filing date had been accorded, rather than a "Notice of Incomplete Application."

The "Notice" mailed February 8, 2008, was mailed in error and is hereby withdrawn.

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

During examination, if the examiner determines drawings are necessary under 35 USC 113, he may reconsider the filing date issue and have the Office of Patent Application Processing mail a Notice of Incomplete Application. See MPEP 601.01(f).

Since the petition under 37 CFR 1.53 is granted, consideration of the petition filed in the alternative under 37 CFR 1.57 is unnecessary.

On February 25, 2008, an amendment to add the missing drawings based on an explicit incorporation by reference in the specification. The amendment will be considered by the examiner in due course to determine if the amendment seeks entry of new matter not described in the application as filed.

Since the Notice of Incomplete Application was improper, the petition fee of $400 has not been charged to petitioner's deposit account.

The Application is being returned to the Office of Patent Application Processing for further processing with a filing date of November 20, 2007, using the application papers filed on November 20, 2007.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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J. BENNETT MULLINAX,LLC
P.O. BOX 26029
GREENVILLE SC 29616-1029

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OFFICE OF PETITIONS

In re Application of
Lawrence J. Harpring et al
Application No. 11/986,141
Filed: November 20, 2007
Atty Dckt No. WSR-107 (SRS 06-038)

DECISION DISMISSING PETITION

This is a decision on the petition filed January 22, 2008, under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of November 19, 2007, rather than the currently-accorded filing date of November 20, 2007.

Petitioner avers that the application was deposited in Express Mail service on November 19, 2007, but that the receipt from the USPS reflects a check in date of November 20, 2007, at 10:31 a.m.

Petitioner avers that inquiries were made in 2003 with U.S. Postal Service employees at the Keith D. Oglesby Station, Greenville, South Caroling, to learn their procedures for receiving and processing Express Mail packages deposited in their facility, and that information provided by the U.S. Postal Service employees indicated that all Express Mail packages received prior to 5:00 p.m. at the inside depository of the Keith D. Oglesby Station Greenville, South Carolina, of the U.S. Postal Service would be processed that same day. Petitioner further aver that, for reasons unknown, the normal processing procedures of the U.S. Postal Service, were not followed; if followed, the Express Mail label would have timely reflected a receipt of November 19, 2007 and that similar express mail deposits made within the last four and one-half years at this branch have all been timely processed with the date of actual deposit. In support, petitioner has provided a declaration by counsel's legal assistant, Peggy S. Baker, in which she states that she placed the Express Mail package referenced with EV 961293069 US at the Keith D. Oglesby Station in Greenville, South Carolina, of the U.S. Postal Service at approximately 4:30 p.m. on Monday, November 19, 2007.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) 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 Office on the date of deposit with the USPS. 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 Office receipt date as the filing date.[1] (emphasis added)

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 Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

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[1] See 37 CFR 1.6(a).

The showing of record has been considered, but is not persuasive. In regard to 37 CFR 1.10(d), petitioners have not presented corroborating evidence that the correspondence was deposited in Express Mail service prior to the last scheduled pickup for that day. Both the "date-in" and the official USPS postmark show that the envelope was deposited in Express Mail on November 20, 2007.

Further, petitioner's declaration by Ms. Peggy S. Baker was made two months after the events in question and recites Ms. Baker's recall of the preparation and filing of the application with the U.S. Postal Service. The application does not appear to be unusual and it is not understood why the filing of this particular application would stand out in such detail in Ms. Baker's memory.

If the error was due to the USPS entering the wrong date on the Express Mail label, petitioners should request a letter from the USPS stating that the correct date of deposit is November 19, 2007, and explaining why the error occurred. Additionally, petitioners may provide evidence that came into being after deposit and within one business day of deposit of the application in Express Mail. Such evidence may include a mail log with an entry made after the application was deposited in Express Mail, or a letter to the client sent after the mailing of the application confirming the mailing of the application.

Any request for reconsideration (no further petition fee is required) must be filed within TWO MONTHS of the date of this decision in order to be considered timely [37 CFR 1.181(f)].

As no petition fee is required under 37 CFR 1.10, the petition fee will be refunded.

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

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

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

By hand: Customer Service Window

Mail Stop Petition
Randolph Building
401 Dulany Building
Alxandria VA 22314

Telephone inquiries may be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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J. BENNETT MULLINAX, LLC
P.O. BOX 26029
GREENVILLE SC 29616-1029

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OFFICE OF PETITIONS

In re Application of
Lawrence J. Harpring et al
Application No. 11/986,141
Filed: November 20, 2007
Attorney Docket No. WSR-107 (SRS 06-038)

DECISION GRANTING PETITION

This is a decision on the renewed petition filed November 12, 2008, requesting that the above-identified application be accorded a filing date of November 19, 2007, rather than the presently accorded date of November 20, 2007. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner avers that the application was deposited in Express Mail service on November 19, 2007, but that the receipt from the USPS reflects a check in date of November 20, 2007, at 10:31 a.m.

In view of the evidence presented on November 12, 2008, this application is entitled to a filing date of November 19, 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 November 19, 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

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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OFFICE OF PETITIONS

In re Application of
Johnson
Application No.: 11/986,143
Filing Date: 20 November, 2007
Attorney Docket No. PAJ-1

DECISION

This is a decision on the petition filed on 6 November, 2008, and supplemented on 9 December, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action (Requirement for Restriction) mailed on 26 March, 2008 (copy enclosed), with reply due absent extension of time on or before 26 April, 2008.

The application went abandoned after midnight 26 April, 2008.

The Office mailed a Notice of Abandonment on 23 October, 2008.

On 6 November, 2008, Petitioner filed a petition seeking withdrawal of the holding of abandonment under the provisions of 37 C.F.R. §1.181, and averred non-receipt and submitted in support thereof (including the 9 December, 2008, supplement) statements of non-receipt, search,

non-discovery, nature and reliability of the docketing system and copies of the docket for the instant application and of the due-date calendar/docket for Petitioner's office.

Thus, Petitioner appears to have satisfied the requirements set forth at MPEP §711.03(c)(I).

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

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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

Allegations as to the Request to Withdraw the Holding of Abandonment

The record evidences a satisfactory showing of the requirements under the Rule.

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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] 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).

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

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 23 October, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU (TC/AU) 1655 for further processing in due course, to include the re-mailing of the Office action in question.

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

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

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/986,143	11/20/2007	Pamela A. Johnson	PAJ-1	2013

44728 7590 03/26/2008
J. BENNETT MULLINAX, LLC
P. O. BOX 26029
GREENVILLE, SC 29616-1029

EXAMINER
MELLER, MICHAEL V

ART UNIT	PAPER NUMBER
1655	

MAIL DATE	DELIVERY MODE
03/26/2008	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	11/986,143	JOHNSON, PAMELA A.	
	Examiner	Art Unit	
	Michael V. Meller	1655	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species the many different components to be in the composition. Applicant is required to **specifically enumerate all of the components to be in the elected composition**. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 12, 17 are generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing**

the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 571-272-0967. The examiner can normally be reached on Monday thru Thursday: 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael V. Meller/
Primary Examiner, Art Unit 1655

IFW

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PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/986,143	11/20/2007	Pamela A. Johnson	PAJ-1	2013

44728 7590 03/26/2008
J. BENNETT MULLINAX, LLC
P. O. BOX 26029
GREENVILLE, SC 29616-1029

EXAMINER
MELLER, MICHAEL V

ART UNIT	PAPER NUMBER
1655	

MAIL DATE	DELIVERY MODE
03/26/2008	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)
	11/986,143	JOHNSON, PAMELA A.
	Examiner	Art Unit
	Michael V. Meller	1655

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

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4)☒ Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species the many different components to be in the composition. Applicant is required to **specifically enumerate all of the components to be in the elected composition**. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 12, 17 are generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing**

the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 571-272-0967. The examiner can normally be reached on Monday thru Thursday: 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael V. Meller/
Primary Examiner, Art Unit 1655

Organization IC1600

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KOKKA & BACKUS, PC
200 PAGE MILL ROAD
SUITE 103
PALO ALTO, CA 94306

COPY MAILED

MAY 13 2008

OFFICE OF PETITIONS

In re Application of	:	
SUN, Anita S. et al.	:	
Application No. 11/986,148	:	DECISION ON PETITION
Filed: November 19, 2007	:	TO WITHDRAW
Attorney Docket No. **SNM-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 March 24, 2008.

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

A review of the file record indicates that the power of attorney to Kokka & Backus, PC has been revoked by the assignee of the patent application on May 05, 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: **CHAN LAW GROUP LC**
1055 W. 7TH ST,
SUITE 1880
LOS ANGELES, CA 90017

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.
11/986,154	11/20/2007	Koji Harada	40050538-03	1843

7590 12/03/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER
ANDERSON, MATTHEW D

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
12/03/2009	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: 12/02/2009 NFARMER
11/23/2007 HLE333 00000016 501078 11986154
02 FC:1111 510.00 CR
04 FC:1201 630.00 CR

FORM PET651G (Rev. 08/07)

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MONAHAN & MOSES, LLC
13-B W. WASHINGTON ST.
GREENVILLE SC 29601

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MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald Castillo et al.	:	
Application No. 11/986,162	:	DECISION ON PETITION
Filed: November 20, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. PRT-002	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 25, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from one of the applicants 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 1974 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

In re Application of BALZANO, ALFIERO Application No. 11/986,170 Filed: 11/20/2007 Attorney Docket No. BASIC-001A	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed February 23, 2010, to revive the above-identified application.

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

On October 20, 2009, the Office mailed a Notice of Allowability, which set a statutory period of three months to submit corrected drawings. In the absence of a timely and proper response, the application became abandoned on January 21, 2010. On February 3, 2010, the Office mailed a Notice of Abandonment.

The present 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, and (3) a proper statement of unintentional delay. Accordingly, the failure to submit timely drawings in response to the Notice of Allowability is accepted as being unintentionally delayed.

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries related to this decision 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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ROBERT B. O'DELL
602 CALMAR AVENUE
OAKLAND CA 94610

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OCT 03 2008

OFFICE OF PETITIONS

In re Application of Robert B. O'Dell Application No. 11/986,178 Filed: November 19, 2007 Title: Using Input of Rhyming Characters for Computer Text Entry of Chinese Characters	: : : : :	DECISION ON PETITION TO MAKE SPECIAL 37 CFR 1.102(C)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 19, 2007 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from applicant certifying that he is 65 or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2626 for action on the merits commensurate with this decision.

Telephone inquiries 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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BUILDING 4
9400 HOLLY AVENUE NE
ALBUQUERQUE NM 87122

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
SAIGH, Michael et al.	:	
Application No. 11/986,190	:	DECISION ON PETITION
Filed: November 20, 2007	:	TO WITHDRAW
Attorney Docket No. **ART ASSET**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 2008.

The request is **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 Kevin Wildenstein on behalf of all attorneys of record who are associated with customer No. 34534. 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 second named inventor Jeff Sutton 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: **MR. JEFF SUTTON**
PRUDENT INVESTMENTS, LLC
2967 MCDOWELL ROAD
LAS CRUCES, NEW MEXICO 88005

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FRANK J. THIBAULT
13347 FONTAINE DRIVE
SARATOGA CA 95070

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank Joseph Thibault	:	
Application No. 11/986,200	:	DECISION ON PETITION
Filed: November 20, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 20, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of 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 pre-examination processing. This case will be accorded "special" status once pre-examination processing in complete.

April M. Wise
Petitions Examiner
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of	:	
KITANI, MITSUHIRO, et al.	:	DECISION ON REQUEST TO
Application No. 11/986,260	:	PARTICIPATE IN PATENT
Filed: November 20, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 5354-40	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 27, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

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

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

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP
1030 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark Geiger et al. :
Application No. 11/986,301 :
Filed: November 20, 2007 :
Attorney Docket Number: **GEI 002** :

This is a decision on the petition filed September 22, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on February 15, 2008, for failure to timely reply to the Notice to File Missing Parts, mailed December 14, 2007, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed August 27, 2008.

The filing of the response to Notice to File Missing Parts mailed December 14, 2007 is acknowledged.

All other requirements having been met ,The application is being forwarded to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ROBERT JAMES RAPP
23333 RIDGE ROUTE DRIVE #126
LAKE FOREST CA 92630

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JUN 19 2009
OFFICE OF PETITIONS

In re Application of

Robert James Rapp

Application No. 11/986,336

Filed: November 20, 2007

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed December 16, 2008

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on August 30, 2008, after it was believed that no response was received to the non-final Office action mailed May 29, 2008. The notice allowed a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on December 2, 2008, indicating that a reply to the non-final Office action was not received.

Petitioner states that a terminal disclaimer was filed on July 10, 2008, in response to the non-final Office An Office date-stamped postcard whereby the USPTO acknowledged receiving the response on July 10, 2008, accompanied the petition[1]. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 2800, GAU 2833, for further processing

[1] It is noted that petitioner has filed a United States Postal Service, certified mail postcard that petitioner amended to itemize the contents of the package. It is also noted that the postcard contained the itemization on one side and the Office date-stamp on the other side. In the future, petitioner is cautioned to consult Section 711.03(c) of the Manual of Patent Examining Procedure for the proper way to prepare a postcard that may be used as prima facie evidence of the USPTO's receipt of the correspondence. In summary, petitioner should use a blank postcard that contains—on the same side-- the identifiers for the application, i.e, application serial number and filing date, and the itemization of the contents of the package. Presumably, the USPTO will then affix the date-stamp properly on the side of the postcard that contains the application identifiers and itemization.

including review of terminal disclaimer filed July 10, 2008, a copy of which was filed with the petition on December 16, 2008.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100212

DATE : March 03, 2010

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: PP19,916 11/986,339

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.

Angela Green 703-756-1541

Thank You For Your Assistance **Certificates of Correction Branch**

703-756-1814

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:

Request for Correction on January 20, 2010 has been approved

Anne Marie Grunberg

ANNE MARIE GRUNBERG
SUPERVISORY PATENT EXAMINER

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MAR 07 2008

OFFICE OF PETITIONS

Hugh McTavish
Cyr & Associates, P.A.
Suite 300
605 U.S. Highway 169
Minneapolis MN 55441

In re Application of :
Cannon et al. :
Application No. 11/986,352 : ON PETITION
Deposited: November 21, 2007 :
Title: Multi-Epitope Peptide-Loaded:
Dendritic Cell Immunotherapy For
Cancer

This is a decision on the Petition for Filing Date filed January 28, 2008, requesting that the above-identified application be accorded the filing date of November 21, 2007. This petition is being treated pursuant to 37 CFR 1.53(e)(2).

Application papers in the above-identified application were deposited on November 21, 2007. However, on January 18, 2008, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without drawings.

In response, 2 sheets of drawings and the present petition were filed on January 28, 2008. The petition contends that the application as filed included 2 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of "Two (2) sheets of formal drawings" on November 21, 2007.

Applicants' postcard receipt is prima facie[1] evidence that drawings were received on November 21, 2007, but no drawings are

[1]A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 2 sheets of drawings were received on November 21, 2007, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. The petition fee of $400.00 will be refunded.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on January 28, 2008, will be used for processing and examination purposes.

The application will be returned to the Office of Patent Application Processing for further processing with a **filing date of November 21, 2007**, using the 2 sheets of drawings supplied on January 28, 2008.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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JUL 29 2009

OFFICE OF PETITIONS

In re Application of	:	
M. Berndt	:	
Application No. 11/986,358	:	ON PETITION
Filed: November 21, 2007	:	
Attorney Docket No. 20050487-02	:	

This is a decision on the petition, filed June 3, 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."

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed August 8, 2008. A Notice of Abandonment was subsequently mailed on April 6, 2009.

Petitioner asserts that "a thorough search was conducted to locate the Notice" and there is no indication that the Notice was received. Petitioner submits a copy of pages from the Office's electronic mail log of all office action received from April 8, 2009 through April 20, 2009. Petitioner notes that a search of the docketing database containing due dates and related documents did not reveal any receipt of the Notice as well. Accordingly, petitioner request that the abandonment be withdrawn. The requisite executed declaration and surcharge are included with the present petition.

A review of the written record indicates no irregularity in the mailing of the Notice of August 8, 2008, 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.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar, reminder system, or the individual docket record for the application in question.

The instant petition does not establish non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c). Specifically, the petition fails to describe the system used for recording an Office action received at the correspondence address of record. Further, while petitioner acknowledges the existence of a docketing database containing due dates, petitioner failed to submit a copy of this "master docket" showing all replies docketed for a date three months from the mail date of the non-received Notice.

Absent the required evidence to establish non-receipt of the Notice of August 8, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

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[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
DEC 04 2009
OFFICE OF PETITIONS

In re Application of	:	
M. Berndt	:	
Application No. 11/986,358	:	DECISION ON PETITION
Filed: November 21, 2007	:	
Attorney Docket No. 20050487-02	:	

This is a decision on the renewed petition, filed September 29, 2009, 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 reply to a Notice to File Missing Parts of Nonprovisional Application mailed August 8, 2008, which set a two-month period for reply. On June 3, 2009, a petition under 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed July 29, 2009. In response, on September 29, 2009, the present petition was filed.

On reconsideration, the petition establishes non-receipt of the Notice in compliance with the procedures set for at MPEP 711.03(c).

In view of the above, the Notice of Abandonment mailed April 6, 2009 is hereby vacated and the holding of abandonment withdrawn.

The application is being referred to the Office of Patent Application Processing (OPAP) for consideration of the response filed June 3, 2009.

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

ZUBER & TAILLIEU LLP
10866 WILSHIRE BLVD., SUITE 300
LOS ANGELES CA 90024

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MAR 1 6 2009

OFFICE OF PETITIONS

In re Application of

YOUNG, John
Application No. 11/986,384
Filed: November 20, 2007
Attorney Docket No. **0320-1005**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Spyros Lazaris, the sole attorney of record. Spyros Lazaris has been withdrawn as attorneys or agents of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JOHN YOUNG**
P.O. BOX 577
SUN VALLEY CA 91353

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.
11/986,401	11/21/2007	Densen Cao	29618-67480	2343

7590 12/16/2008
VAN COTT, BAGLEY, CORNWALL & MCCARTHY
P.O. BOX 45340
SALT LAKE CITY, UT 84145-0340

EXAMINER
FARAH, AHMED M

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
12/16/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cislo & Thomas LLP
1333 2nd Street
Suite #500
Santa Monica, CA 90401-4110

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MAR 1 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Christopher James Schiller	:	
Application No. 11/986,405	:	DECISION ON PETITION
Filed: November 20, 2007	:	TO WITHDRAW
Attorney Docket No. 07-20061	:	FROM RECORD
	:	

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 **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 Daniel M. Cislo 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 Chris James Schiller at the address indicated below.

There is no outstanding Office action at this time.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Christopher James Schiller**
4045 Vineland Avenue, Apt. 417
Studio City, CA 91604

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
11/986,405	11/20/2007	Christopher James Schiller	07-20061

CONFIRMATION NO. 2319

POWER OF ATTORNEY NOTICE

25189
Cislo & Thomas LLP
1333 2nd Street
Suite #500
Santa Monica, CA 90401-4110

OC000000034985464

Date Mailed: 03/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/12/2008.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 3, 2010

TO SPE OF : ART UNIT 2837
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/986409 Patent no.735940

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423 _____

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: _____

Walter Benson SPE 2837

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DRW Sep-08

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SEP 08 2008

OFFICE OF PETITIONS

FELDMAN LAW GROUP, PC
12 EAST 41ST STREET
NEW YORK NY 10017

In re Application of :
Jay Schmitt : DECISION ON PETITION
Application Number: 11/986422 :
Filing Date: 11/21/2007 :
Attorney Docket Number: 407.00 :
:

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on July 14, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

---

[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)).

This application became abandoned on February 14, 2008, for failure to file a timely and proper response to the Notice to File Missing Parts of Nonprovisional Application mailed on December 14, 2007, which set a two (2) month shortened statutory period for reply.[2] No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The petition must be dismissed because it lacks a proper reply. It is noted that petitioners included an executed declaration. The declaration is defective, however.

Specifically, the declaration filed with the petition does not comply with 37 CFR 1.63(a)(2) and 1.63(c)(1) in that it does not identify the citizenship mailing address of the inventor. A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[3] Furthermore, the declaration filed with the petition does not meet the requirements of 37 CFR 1.63 because it contains uninitialed/undated alterations.[4]

A new oath or declaration, containing the residence, mailing address, and citizenship of the inventor in compliance with 37 CFR 1.63 and 1.67 is required.

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

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

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

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[2] It is noted that the subject petition was filed on the last day of extendable period for reply to the Notice mailed on December 14, 2007. However, since neither sufficient funds to charge the $1,115.00 extension of time fee nor a proper response, as described *infra*, was filed prior to the extendable period for reply to the Notice mailed on December 14, 2007, the application is properly held abandoned.

[3] 35 U.S.C. § 115, MPEP 605.01.

[4] See 37 CFR 1.52(c).

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Nov-08

FELDMAN LAW GROUP, PC
12 EAST 41ST STREET
NEW YORK NY 10017

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NOV 19 2008

In re Application of	:	
Jay Schmitt	:	
Application Number: 11/986422	:	
Filing Date: 11/21/2007	:	ON PETITION
Attorney Docket Number: 407.00	:	

This is a decision on the renewed petition under 37 CFR 1.137(b)[1] filed on September 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 14, 2008, for failure to timely and properly respond to the Notice to File Missing Parts of Nonprovisional Application mailed on December 14, 2007, which set a two (2)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment. The petition under 37 CFR 1.137(b) filed on July 14, 2008, was dismissed on September 8, 2008.

---

[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 filed with the present petition is acknowledged.

It is noted that a mailing address has been supplied in the block for the "residence" address, while the "Post Office address" block on the declaration has been left blank.

37 CFR 1.63(c)(1) states that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must identify: (1) the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

Furthermore, MPEP 605.03 states that 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. Since the term "post office address" as previously used in 37 CFR 1.63 may be confusing, effective November 7, 2000, 37 CFR 1.63 was amended to use the term "mailing address" instead.

Accordingly, a supplemental Application Data Sheet should be supplied prior to the first Office action, clearly stating the mailing address and residence of the inventor.

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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United States Patent and Trademark Office
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Nerio Alessandri	: DECISION ON REQUEST FOR
Patent Number	: 7601102	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/986,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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REISING ETHINGTON P.C.
P O BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: Robert William Gilbert	: DECISION ON REQUEST FOR
Patent Number	: 7607788	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/986,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Levine Bagade Han, LLP
2400 Geng Road, Suite 120
Palo Alto, CA 94303

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of	:	
E. Skott Greenhalgh, et. al.	:	
Application No. 11/986,524	:	DECISION ON PETITION
Filed: November 20, 2007	:	TO WITHDRAW FROM
Attorney Docket No. SPTRNZ00200	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40, filed September 3, 2009.

The request is **APPROVED**.

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

The request was signed by David A. Levine on behalf of all attorneys/agents of record who are associated with customer No. 40518. Therefore, David A. Levine and all attorneys/agents of record associated with customer No. 40518 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

The request to change the correspondence of record is not acceptable[1] 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 continue to be directed to the above listed address until otherwise properly notified by the applicant.

This application is being referred to Technology Center Art Unit 3775 for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: SeptRx, Inc.
47533 Westinghouse Drive, Suite C
Fremont, CA 94539

[1] 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 (*See* USPTO Form PTO/SB/82).

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/986,524	11/20/2007	E. Skott Greenhalgh	SPTRNZ00200

CONFIRMATION NO. 2479

POWER OF ATTORNEY NOTICE

40518
LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

OC000000038045219

Date Mailed: 09/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/03/2009.

- 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.

/amsmith/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 1 2 2008

OFFICE OF PETITIONS

KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

In re Application of	:	
E. Neil Lewis et al	:	
Application No. 11/986,548	:	DECISION DISMISSING
Filed: November 21, 2007	:	PETITION UNDER 37 CFR 1.10(c)
Attorney Docket No. M0005-032003	:	

This is a decision on the petition filed January 22, 2008, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on November 20, 2007, instead of the currently accorded filing date of November 21, 2007.

The petition is **DISMISSED**.

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 November 21, 2007.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

(1) be 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) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks item (2) and (3) above.

Petitioner requests the filing date of November 20, 2007, on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the "date-in" or other official USPS notation on the "Express Mail" mailing label.

The copy of the Express Mail Label submitted with the petition on January 22, 2008, bears receipt No. EU806085448US. The transmittal letter filed with the application on November 21, 2007, bears receipt No. EU806223419US. Also, the legibility of the copy of the Express Mail receipt No. EU806085448US is such that the USPS "date-in" entry cannot be positively identified. Clarification is required.

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

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

By 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 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

KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

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In re Application of
E. Neil Lewis et al
Application No. 11/986,548
Filed: November 20, 2007
Attorney Docket No. M0005-032003

DECISION GRANTING
FILING DATE

This is a decision on the renewed petition filed October 20, 2008, requesting that the above-identified application be accorded a filing date of November 20, 2007, rather than the presently accorded date of November 21, 2007. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on November 20, 2007, pursuant to 37 CFR 1.10. The Express Mail label receipt no. EU806223419US bears a handwritten "date-in" of November 20, 2007. The same Express Mail number appears on the originally filed application papers.

The petition is **granted**.

This matter is being referred to the Office of Patent Application Processing (OPAP) for correction of the filing date to November 20, 2007. Thereafter, the application will be referred to Technology Center AU 2884 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of
Jordan W. Smoller et al
Application No. 11/986,553
Filed: November 21, 2007
Attorney Docket No. M0765.70094US01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of Nonprovisional Application (Notice) mailed July 11, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 12, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1175 extension of time submitted with the petition on April 8, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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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NIXON PEABODY LLP
200 PAGE MILL ROAD
PALO ALTO, CA 94306

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Joseph P.R. Tosey
Application No. 11/986,629
Filed: November 21, 2007
Attorney Docket No. 434300-934

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed March 27, 2008, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d). The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 28, 2008. A Notice of Abandonment was mailed on December 1, 2008. On December 19, 2008, the present petition was filed.

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

The application is being referred to the Office of Patent Application Processing (OPAP) for review of the drawings provided December 19, 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

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/986,630	11/21/2007	Bogdan Szafraniec	10070271-01	2750

7590 12/11/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER
LAUCHMAN, LAYLA G

ART UNIT	PAPER NUMBER
2877	

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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 12/10/2009 NFARMER
11/27/2007 LTRUONG 05000001 501078 11986630
02 FC:1111 510.00 CR

FORM PET651G (Rev. 08/07)

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Cislo & Thomas LLP
1333 2nd Street
Suite #500
Santa Monica CA 90401-4110

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
C. Kumar N. Patel et al.	:	
Application No. 11/986,632	:	DECISION ON PETITION
Filed: November 21, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 07-20012	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 21, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from one of the applicant's declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2877 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jack V. Miller
20915 Sussex Hwy.
Seaford DE 19973

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MAR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Jack V. Miller	:	
Application No. 11/986,653	:	DECISION ON PETITION
Filed: November 26, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes 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 2875 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JACK V. MILLER
20915 SUSSEX HIGHWAY
SEAFORD, DE 19973

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of	:	
MILLER, Jack V.	:	
Application No. 11/986,654	:	DECISION ON PETITION
Filed: November 26, 2007	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED.**

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

The instant petition includes the statement of inventor Jack V. Miller, attesting to his age. Accordingly, the above-identified application will be accorded "special" status.

It is noted that petitioner submitted a petition fee of $130. However, no fee is required for petitions to make applications special filed under 37 CFR 1.102(c)(1). Petitioner has not authorized any fee overpayment be charge to a deposit account; therefor the $130 fee will be refunded by check.

Inquiries concerning either the examination or status of the application should be directed to the Office of Patent Application Processing at 571-272-4000.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION TO MAKE SPECIAL

TITLE: RECESSED LIGHT FIXTURE FOR LUMINOUS CEILNGS

INVENTOR: Jack V. Miller

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

Sir:

1. The applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason:

Reason 4. Applicant Jack V. Miller's age is over 65.
(Applicant's age is 77, born 03/09/30)

Jack V. Miller - inventor Jack V. Miller date: Nov. 21, 2007

11/27/2007 LTRUONG 00000024 11986654
04 FC:1464 130.00 OP

Adjustment date: 12/13/2007 CKHLOK
11/27/2007 LTRUONG 00000024 11986654
04 FC:1464 -130.00 OP

Refund Ref:
12/13/2007 CKHLOK 0000160368

CHECK Refund Total: $130.00

18379 U.S. PTO
112607

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION FEE TRANSMITTAL

RECESSED LIGHT FIXTURE FOR LUMINOUS CEILNGS

INVENTOR: Jack V. Miller
Mailing Date: Nov. 21, 2007
Serial Number: Not yet assigned

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

BASIC FILING, SEARCH and EXAMINATION FEES:

1.	Utility Application Filing Fee (small entity)	$150.00
2.	Search Fee	250.00
3.	Examination Fee	100.00
4.	Petition To Make Special (PTMS based on age 77)	130.00
5.	Excess claims fee (1 independent, 6 total claims)	0
6.	Application size fee (less than 100 sheets w/dwgs)	0
	TOTAL FEES (check included)	$630.00

Respectfully submitted,

Jack V. Miller – applicant
20915 Sussex Hwy.
Seaford, DE 19973
Phone: (302) 628-9933 Fax: (302) 628-9932

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 12/12/07

2 Serial/Patent # 11/986,654

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition 1464	PET.OP	11/26/07	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

X	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No fee required for the filing of a petition to make special based on age. see 37 CFR 1.102(c)(1)

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: Monica A. Graves PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CRWK DATE: 12/13/07

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

DAVID EIMERL
4042 CAMROSE AVENUE
LIVERMORE CA 94551-8284

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Eimerl et al.	:	
Application No. 11/986,659	:	DECISION ON PETITION
Filed: November 26, 2007	:	
Title: Pop Method and Apparatus for Customer Engagement	:	

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

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 Corrected Application Papers (Notice) mailed December 27, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2008. A Notice of Abandonment was mailed September 12, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks none of the above items.

However, 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.

In the instant petition, only one of the two listed inventors has signed the instant petition. As discussed above, all of the inventors are required to sign the petition.

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

By mail:

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

By hand:

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

By fax:

(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID EIMERL
4042 CAMROSE AVENUE
LIVERMORE CA 94551-8284

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MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Eimerl et al.	:	
Application No. 11/986,659	:	DECISION ON PETITION
Filed: November 26, 2007	:	
Title: Pop Method and Apparatus for Customer Engagement	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 Corrected Application Papers (Notice) mailed December 12, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 13, 2008. A Notice of Abandonment was mailed September 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a Substitute Specification and a $105.00 Additional Claims fee (previously submitted on September 12, 2008); (2) the petition fee of $770.00 (previously paid on September 12, 2008), and (3) a proper statement of unintentional delay.

Both inventors have now signed the instant petition.

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

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

/Liana Walsh/
Liana Walsh
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD, SUITE 100
NOVI MI 48375

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of :
YANAI et al. :
Application No. 11/986,735 : ON PETITION
Filed: November 26, 2007 :
Attorney Docket No. SKO-166-A :

This is a decision on the petition filed January 3, 2008, which is being treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of November 26, 2007.

On November 26, 2007, applicants deposited the above-identified application. On December 31, 2007, the Office sent applicants 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 January 3, 2008, applicants submitted, *inter alia*, the present petition, 12 drawing sheets, and a return date-stamped postcard receipt. The postcard acknowledged receipt of 12 drawing sheets in the United States Patent and Trademark Office (USPTO) on November 26, 2007.

Upon review of the record, the 12 sheets of drawings, deposited on November 26, 2007, have not been located among the application papers. Nevertheless, the evidence is convincing that the application papers deposited on November 26, 2007, included 12 drawing sheets, which were subsequently misplaced in the USPTO. Therefore, the application including the 12 drawing sheets, was complete on filing and will be granted a filing date of November 26, 2007.

Accordingly, the petition is **granted**. The Notice of Incomplete was sent in error and is hereby withdrawn. The $400.00 petition fee is unnecessary and will be refunded to the Deposit Account.

This application is being referred to the Office of Patent Application Processing for processing of the **above-identified application with a filing date of November 26, 2007**, using the 12 sheets of drawings submitted with the present petition on January 3, 2008.

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
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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD, SUITE 100
NOVI MI 48375

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
YANAI et al.	:	
Application No. 11/986,735	:	LETTER
Filed: November 26, 2007	:	
Attorney Docket No. SKO-166-A	:	

This is in response to the "REQUEST FOR REFUND," filed June 10, 2008.

On January 3, 2008, applicants filed a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of November 26, 2007. On January 24, 2008, the Office mailed a decision granting the petition and indicating that the Notice of Incomplete was sent in error and was withdrawn. The decision further stated that the $400.00 petition fee was unnecessary and would be refunded to the Deposit Account.

A review of Office finance records does not show that the $400.00 petition fee was refunded to the Deposit Account in accordance with the decision of January 24, 2008. Accordingly, the request for a refund is granted. The Office apologizes for this oversight and will credit $400.00 to Deposit Account No. 50-0744 in due course.

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

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United States Patent and Trademark Office
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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AUG 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Mccullagh et al.	:	
Application No. 11/986,759	:	ON PETITION
Filed: November 26, 2007	:	
Attorney Docket No. 792-88 DIV/CON II	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed January 8, 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 9, 2008. A Notice of Abandonment was mailed September 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a substitute specification, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (271) 272-4000.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BRIAN J. REES
GENTEX CORPORATION
600 NORTH CENTENNIAL STREET
ZEELAND, MI 49464

Mail Date: 04/21/2010

Applicant	: Joseph S. Stam	: DECISION ON REQUEST FOR
Patent Number	: 7630803	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/986,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/986,795	11/26/2007	Thomas Duzzie	MB 669	3779

7590 11/03/2009

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

EXAMINER
KAMEN, NOAH P

ART UNIT	PAPER NUMBER
3741	

MAIL DATE	DELIVERY MODE
11/03/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

11986795

FORM PET651G (Rev. 08/07)

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

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Henricus Peerlings et al	:	
Application No. 11/986,822	:	DECISION ON PETITION
Filed: November 27, 2007	:	
Attorney Docket No. 15778-00037	:	

This is a decision on the petition, filed November 13, 2008, entitled, "PETITION TO WITHDRAW HOLDING OF ABANDONMENT (37 CFR 1.181) OR, IN THE ALTERNATIVE, 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**.

This application was held abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed December 18, 2007.

Petitioner asserts that the Office action dated December 18, 2007 was not received.

Petitioner states that applicant never received the Notice to File Corrected Application Papers from the USPTO, and that applicant was not aware that the Notice was issued until checking PAIR after receiving the Notice of Abandonment. Petitioner further states that the case was transferred to their firm on February 12, 2008 from applicant, and that applicant noted in the file on a docket sheet dated January 30, 2008 that the Notice to File Corrected Application Papers was not received. A declaration by Donna Veatch was submitted to confirm that the Notice was not received by her or by Bayer.

The evidence provided for in the above petition has been considered but is not convincing to substantiate the granting of the petition to withdraw holding of abandonment under 37 CFR 1.181.

However, the petition under 37 CFR 1.137(b) to revive the above-identified application, is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed December 18, 2007, is accepted as having been unintentionally delayed.

It is noted that the request for Change of Address submitted on February 10, 2009, has **not** been entered because the person signing the request is not of record. While a courtesy copy of this decision is being mailed to the person signing the request, 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) 272-3208.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BAYER MATERIAL SCIENCE LLC
100 BAYER REOAD
PITTSBURGH, PA 15205

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/986,855	11/27/2007	Osamu Hakamata	4041J-001387	4099

7590 08/28/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
LEO, LEONARD R

ART UNIT	PAPER NUMBER
3744	

MAIL DATE	DELIVERY MODE
08/28/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/01/2009 NFARMER 0200168669

CHECK Refund Total: $760.00

Adjustment date: 09/01/2009 NFARMER
11/28/2007 EAYALEW1 00000014 11986855
02 FC:1111 -510.00 OP
04 FC:1202 -250.00 OP

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

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OFFICE OF PETITIONS

In re Application of :
Okabe et al. :
Application Number: 11/986862 : DECISION ON PETITION
Filing Date: 11/27/2007 :
Attorney Docket Number: 69832 :
(71719) :

This is a decision on the petition styled under 37 CFR 1.10(d), filed on February 8, 2008, which is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 27, 2007, rather than the presently accorded filing date of November 28, 2007.

Petitioner alleges that the application was deposited in Express Mail service on November 27, 2007. In support, petitioners have provided a copy of Express Mail Label No. EM005399531US (the same Express Mail number found on the itemized Provisional Application for Patent Cover Sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "11 28 07" the label also contains an Official USPS postmark dated November 27, 2007.

In view of the above, the correct date of deposit in Express Mail is November 27, 2007.

In view of the above, the petition is granted. No petition fee is necessary, and none has been paid.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to **November 27, 2007.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/986,862	11/27/2007	Nobuo OKABE	69832 (71719)	4106

7590 07/02/2009
Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, MA 02205

EXAMINER
BARRON JR, GILBERTO

ART UNIT	PAPER NUMBER
2432	

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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 07/02/2009 NFARMER
11/28/2007 EAYALEW1 00000039 041105 11986862
02 FC:1111 510.00 CR
04 FC:1201 420.00 CR

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THOMSON LICENSING LLC
2 INDEPENDENCE WAY,
PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543

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SEP 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Duchenne	:	
Application No. 11/986,948	:	DECISION
Filed/Deposited: 27 November, 2007	:	
Attorney Docket No. PD060098	:	

This is a decision on the petition filed on 28 February January, 2008, under 37 C.F.R. §1.53, requesting a filing date of 25 January, 2007, the instant application.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing

The petition under 37 C.F.R. §1.53 is **DISMISSED**.

A review of the application file reveals that:

The instant application was deposited on 27 November, 2007.

On 2 January, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Application indicating that the application had not been accorded a filing date because:

- the specification was missing and the specification does not include at least one claim. A complete specification (as required by 35 U.S.C. §112); and

- the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OPAP indicated that Petitioner might:

- contend via petition that specification with at least one claim, and at least one drawing had been submitted on deposit and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the specification (description, claims, abstract) and at least one drawing; or

- submit specification with at least one claim (and description and abstract) and at least one drawing and accept that date of deposit as the date of filing.

OIPE set a two- (2-) month period for reply.

On 28 February, 2008, Petitioner submitted the instant petition, including therewith, *inter alia*, what was averred to be a true copy of specification with at least one claim (and description and abstract) and four sheets of drawings, FIGS. 1 – 8. Petitioner submitted a receipt card, but it was not date-stamped. (The Office placed a call to Petitioner on 24 September, 2008, and a message was left on Petitioner's voice mail to request that a copy of the date-stamped receipt card be filed (*see*: MPEP §503).) Petitioner also included a statement as to the procedure averred to have been used to prepare and transmit the application, along with a copy of a U.S. Postal Service (USPS) Express Mail label. However, the instant petition is not considered under 37 C.F.R. §1.10, because what is at issue here is not the date of transmittal but rather the content deposited. And, as indicated above, the controlling factor is not what Petitioner intended to transmit or believed to have been included, but what was received by the Office—for which reason copy of the date-stamped receipt card be filed (*see*: MPEP §503). The Office always directs Petitioner to submit a true copy of the date-stamped receipt card (*see*: MPEP §503).

Thus, Petitioner's arguments have been considered, however, as discussed above the showing as of this writing is not persuasive.

ANALYSIS

A search of the official file reveals that:

- Petitioner deposited the instant application on 27 November, 2007.

- The Office record reflects that the specification was missing and the specification does not include at least one claim (as required by 35 U.S.C. §112); and the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

Because Petitioner failed to provide a date-stamped receipt card, it is not possible as of this writing to conclude that: (a) the specification was present and included at least one claim (as required by 35 U.S.C. §112); and the application had been deposited with at least one drawing as required under 35 U.S.C. §113 (first sentence), and so (b) is due a 27 November, 2007, filing date.

Accordingly, the instant application is not entitled to a filing date of 27 November, 2007.

As of this writing, the Notice mailed on 2 January, 2008, was properly sent and will not be disturbed.

CONCLUSION

The petition is **dismissed**; the petition fee will not be refunded because there is no indication as of this writing that the Notice of 2 January, 2008, was mailed in error.

The application is released to OPAP for further processing consistent with this decision and without a filing date.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

/John J. Gillon, Jr./
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.

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PRINCETON NJ 08543

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SEP 26 2008
OFFICE OF PETITIONS

In re Application of	:	
Duchenne	:	
Application No. 11/986,948	:	DECISION (SUPPLEMENT)
Filed/Deposited: 27 November, 2007	:	
Attorney Docket No. PD060098	:	

This is a decision supplement on the petition filed on 28 February, 2008, under 37 C.F.R. §1.53, requesting a filing date of 27 November, 2007, for the instant application—and correcting the foregoing statement of the case. In all other particulars, the decision of 25 September, 2008, remains the same.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing

The petition under 37 C.F.R. §1.53 is **DISMISSED**.

A review of the application file reveals that:

The instant application was deposited on 27 November, 2007.

On 2 January, 2008, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed a Notice of Incomplete Application indicating that the application had not been accorded a filing date because:

- the specification was missing and the specification does not include at least one claim. A complete specification (as required by 35 U.S.C. §112); and
- the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OPAP indicated that Petitioner might:

- contend via petition that specification with at least one claim, and at least one drawing had been submitted on deposit and so evidence that condition with the proper supporting documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the specification (description, claims, abstract) and at least one drawing; or

- submit specification with at least one claim (and description and abstract) and at least one drawing and accept that date of deposit as the date of filing.

OIPE set a two- (2-) month period for reply.

On 28 February, 2008, Petitioner submitted the instant petition, including therewith, *inter alia*, what was averred to be a true copy of specification with at least one claim (and description and abstract) and four sheets of drawings, FIGS. 1 – 8. Petitioner submitted a receipt card, but it was not date-stamped. (The Office placed a call to Petitioner on 24 September, 2008, and a message was left on Petitioner's voice mail to request that a copy of the date-stamped receipt card be filed (*see*: MPEP §503).) Petitioner also included a statement as to the procedure averred to have been used to prepare and transmit the application, along with a copy of a U.S. Postal Service (USPS) Express Mail label. However, the instant petition is not considered under 37 C.F.R. §1.10, because what is at issue here is not the date of transmittal but rather the content deposited. And, as indicated above, the controlling factor is not what Petitioner intended to transmit or believed to have been included, but what was received by the Office—for which reason copy of the date-stamped receipt card be filed (*see*: MPEP §503). The Office always directs Petitioner to submit a true copy of the date-stamped receipt card (*see*: MPEP §503).

Thus, Petitioner's arguments have been considered, however, as discussed above the showing as of this writing is not persuasive.

ANALYSIS

A search of the official file reveals that:

- Petitioner deposited the instant application on 27 November, 2007.

- The Office record reflects that the specification was missing and the specification does not include at least one claim (as required by 35 U.S.C. §112); and the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

Because Petitioner failed to provide a date-stamped receipt card, it is not possible as of this writing to conclude that: (a) the specification was present and included at least one claim (as required by 35 U.S.C. §112) and the application had been deposited with at least one drawing as

required under 35 U.S.C. §113 (first sentence); and so (b) is due a 27 November, 2007, filing date.

Accordingly, the instant application is not entitled to a filing date of 27 November, 2007.

As of this writing, the Notice mailed on 2 January, 2008, was properly sent and will not be disturbed.

CONCLUSION

The petition is **dismissed**; the petition fee will not be refunded because there is no indication as of this writing that the Notice of 2 January, 2008, was mailed in error.

The application is released to OPAP for further processing consistent with this decision and without a filing date.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. ' 1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner=s/Caller=s action(s).

/John J. Gillon, Jr./
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.

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Duchenne	:	
Application No. 11/986,948	:	DECISION (SUPPLEMENT)
Filed/Deposited: 27 November, 2007	:	
Attorney Docket No. PD060098	:	

This is a decision on the petition filed on 12 November, 2008, pursuant to 37 C.F.R. §1.53, requesting a filing date of 27 November, 2007, for the instant application.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

A review of the application file reveals that:

The instant application was deposited on 27 November, 2007.

On 2 January, 2008, the Office of Patent Application Processing (OPAP) mailed a Notice of Incomplete Application indicating that the application had not been accorded a filing date because:

- the specification was missing and the specification does not include at least one claim. A complete specification (as required by 35 U.S.C. §112); and

- the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

OPAP indicated that Petitioner might:

- contend via petition that specification with at least one claim, and at least one drawing had been submitted on deposit and so evidence that condition with the proper supporting

documentation (i.e., a date stamped receipt card (see: MPEP §503)) along with a copy of the specification (description, claims, abstract) and at least one drawing; or

- submit specification with at least one claim (and description and abstract) and at least one drawing and accept that date of deposit as the date of filing.

OPAP set a two- (2-) month period for reply.

On 28 February, 2008, Petitioner submitted a petition, including therewith, *inter alia*, what was averred to be a true copy of specification with at least one claim (and description and abstract) and four sheets of drawings, FIGS. 1 – 8. Petitioner submitted a receipt card, but it was not date-stamped. (The Office placed a call to Petitioner on 24 September, 2008, and a message was left on Petitioner's voice mail to request that a copy of the date-stamped receipt card be filed (*see*: MPEP §503).) Petitioner also included a statement as to the procedure averred to have been used to prepare and transmit the application, along with a copy of a U.S. Postal Service (USPS) Express Mail label. However, the petition was not considered under 37 C.F.R. §1.10, because at issue here was/is not the date of transmittal but rather the content deposited. And, as indicated above, the controlling factor was not what Petitioner intended to transmit or believed to have been included, but what was received by the Office—for which reason copy of the date-stamped receipt card be filed (*see*: MPEP §503). The Office always directs Petitioner to submit a true copy of the date-stamped receipt card (*see*: MPEP §503).Thus, Petitioner's arguments were considered, however, as discussed above was not persuasive. And the petition was dismissed on 26 September, 2008.

On 12 November, 2008, Petitioner submitted a petition and demonstrated that the Office apparently date-stamped the receipt card (with the application number, "11986948" and the receipt date "112707") on the address side of the receipt card rather than on the content side of the card. Petitioner averred that what was presented with the 12 November, 2008, petition was a true copy the two faces of the receipt card thus evidencing both content and date received. The representation to the Office by Petitioner as one registered to practice before the Office is so considered in light of the duty of candor.

ANALYSIS

A search of the official file reveals that:

- Petitioner deposited the instant application on 27 November, 2007.

- The Office record reflects that the specification was missing and the specification does not include at least one claim (as required by 35 U.S.C. §112); and the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence).

When Petitioner did not provide the date-stamped side of the receipt card on the original petition, it was not possible to conclude that: (a) the specification was present and included at least one claim (as required by 35 U.S.C. §112) and the application had been deposited with at least one drawing as required under 35 U.S.C. §113 (first sentence); and so (b) is due a 27 November, 2007, filing date.

On review of the materials presented on 12 November, 2008, the date-stamped receipt card evidences—in pertinent part—the following:

***

1 Independent Claims
0 Claims in Excess 20
2 Claim Pages
7 Specification Pages
4 Sheets of Drawings
1 Abstract Pages
(Emphasis supplied)

***

Because Petitioner's receipt card adequately itemized the contents of the application as to the elements deposited, it is concluded that the application including 10 pages of specification (description, claims, abstract) and 4 sheets of black and white drawing figures described in the specification—was deposited with the Office on 27 November, 2007, and 10 pages of specification (description, claims, abstract) and 4 sheets of black and white drawing figures described in the specification subsequently were misplaced in the Office.

Accordingly, the application, including 10 pages of specification (description, claims and abstract) and 4 sheets of black and white drawing figures, is entitled to a filing date of 27 November, 2007.

The Notice mailed on 2 January, 2008, was sent in error to the extent that it reflected the specification was missing and the specification does not include at least one claim (as required by 35 U.S.C. §112); and the application had been deposited without drawings as required under 35 U.S.C. §113 (first sentence) is hereby **vacated** to the extent that it stated that the application was not accorded a filing date.

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 petition is **granted**; the petition fee waived and is being refunded *via* deposit account—should Petitioner later find that a fee was not refunded, Petitioner should send a refund request to Office of Finance with a copy of this decision.

This application is released to OPAP for further processing with a filing date of 27 November, 2007, for the entire application including 10 pages of specification (description, claims and abstract) and 4 sheets of black and white drawings (with 4 pages of preliminary amendment using:

- **pages 1–10 of the specification (description, claims abstract) and 4 sheets of black and white drawings deposited on 28 February, 2008; and**
- **pages 1 – 4 of the preliminary amendment deposited on 27 November, 2007; and further,**

with direction to OPAP to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 27 November, 2007, and reflecting therein that 10 pages of specification (description claims abstract) (and 4 pages of preliminary amendment), and 4 sheets of black and white drawings were present on filing.

[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).

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

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

---

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

§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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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Yon, Steve A.	:	DECISION ON PETITION
Application No. 11/986,989	:	TO WITHDRAW
Filed: November 27, 2007	:	FROM RECORD
Attorney Docket No. 137002	:	

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, 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.

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

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.
11/986,999	11/28/2007	Rafael Kazumiti Morizawa	1529.79453	5177

7590 10/14/2009

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER
SHAH, KAMINI S

ART UNIT	PAPER NUMBER
2128	

MAIL DATE	DELIVERY MODE
10/14/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Repin. Ref: 10/14/2009 NFARMER 0012101400
DAN:072059 Name/Number:11986999
FC: 9204 $510.00 CR

Adjustment date: 10/14/2009 NFARMER
11/29/2007 RMEBRAHT 00000023 11986999
02 FC:1111 -510.00 CP

FORM PET651G (Rev. 08/07)

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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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DIW Nov-09

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

MAILED

NOV 04 2009

OFFICE OF PETITIONS

In re Application of :
Liang et al. :
Application Number: 11/987002 : ON PETITION
Filing Date: 11/26/2007 :
Attorney Docket Number: BHT- :
3226-121 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on September 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 18, 2008, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on December 17, 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 August 29, 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)).

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.[2] 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.

Receipt of the reply, filed on September 2, 2009, to the Notice to File Missing Parts of Nonprovisional Application mailed on December 17, 2007, is acknowledged.

Receipt of the revocation and power of attorney filed on September 2, 2009, is acknowledged. All correspondence will be mailed to the new address of record.

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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regard Change of Power of Attorney
Notice of Acceptance of Power of Attorney

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/987,002	11/26/2007	Fa-Kuang Liang	BHT-3226-121

CONFIRMATION NO. 2833

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LESSBURG PIKE
FALLS CHURCH, VA 22041

POWER OF ATTORNEY NOTICE

OC000000038605362

Date Mailed: 11/04/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/02/2009.

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

/diwood/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/987,002	11/26/2007	Fa-Kuang Liang	BHT-3226-121

CONFIRMATION NO. 2833

POA ACCEPTANCE LETTER

60601
Muncy, Geissler, Olds & Lowe, PLLC
P.O. BOX 1364
FAIRFAX, VA 22038-1364

OC000000038605363

Date Mailed: 11/04/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/02/2009.

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.

/diwood/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,022	11/26/2007	Kazuhiro Ito	P58478	2834

7590 10/26/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/26/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Repln. Ref: 10/26/2009 NFARMER 0014522405
DAN:324943 Name/Number:11987022
FC: 9204 $510.00 CR

Adjustment date: 10/26/2009 NFARMER
02/20/2008 CNGUYEN2 00000103 11987022
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,068	11/27/2007	Yoo-Jin Song	301/079	3843

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.

Nomi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
11/02/2009 0330076263

Credit Card Refund Total: $510.00

Am Exp.: XXXXXXXXXXX1003

Adjustment date: 11/02/2009 NFARMER
11/28/2007 MAHMED1 00000043 11987068
02 FC:1111 -510.00 OP

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

Mail Date: 04/21/2010

Applicant	: Hiroyuki Mizuno	: DECISION ON REQUEST FOR
Patent Number	: 7598796	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/987,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of Ichikawa, Kenji and Kasahara, Seiji	:	
Appl No.: 11/987,167	:	**DECISION GRANTING**
Filed: November 28, 2007	:	**PETITION**
For: Acceptance of color drawings	:	*37 CFR 1.84*
	:	
	:	
	:	
	:	

This is a decision on the petition filed November 28, 2007 to accept color drawings submitted by Applicant. Because Applicant has paid the fee, included three (3) sets of drawings and given sufficient reason as to why the drawings are necessary, the petition is GRANTED.

Yogendra Gupta
Supervisory Patent Examiner
Art Unit 1791
Technology Center 1700

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,167	11/28/2007	Kenji ICHIKAWA	Q105281	4419

23373 7590 06/17/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
EWALD, MARIA VERONICA

ART UNIT	PAPER NUMBER
1791	

NOTIFICATION DATE	DELIVERY MODE
06/17/2010	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):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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6/17/10

In re Application of Ichikawa, Kenji and Kasahara, Seiji	:	
Appl No.: 11/987,167	:	**DECISION GRANTING**
Filed: November 28, 2007	:	**PETITION**
For: Acceptance of color drawings	:	*37 CFR 1.84*
	:	
	:	
	:	
	:	

This is a decision on the petition filed November 28, 2007 to accept color drawings submitted by Applicant. Because Applicant has paid the fee, included three (3) sets of drawings and given sufficient reason as to why the drawings are necessary, the petition is GRANTED.

Yogendra Gupta
Supervisory Patent Examiner
Art Unit 1791
Technology Center 1700

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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OCT 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Koji Nii	:	
Application No. 11/987,180	:	DECISION GRANTING PETITION
Filed: November 28, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 067161-0452	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 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 September 12, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and amendment.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,208	11/28/2007	Manabu Kato	1000409-000270	4342

7590 08/24/2009
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
NATALINI, JEFF WILLIAM

ART UNIT	PAPER NUMBER
2831	

NOTIFICATION DATE	DELIVERY MODE
08/24/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 08/21/2009 BPOWELL
11/29/2007 MAHMED1 00000050 11987208
02 FC:1111 -510.00 OP

Adjustment date: 08/21/2009 BPOWELL
11/29/2007 MAHMED1 00000050 11987208
02 FC:1111 -510.00 OP

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UNITED STATES PATENT AND TRADEMARK OFFICE

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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AUG 0 4 2008

In re Application of :
Funk, et al. :
Application No. 11/987,219 : ON PETITION
Filed: November 28, 2007 :
Attorney Docket No. P70136US1 :
For: RASTER SCANNING LIGHT MICROSCOPE

This decision is mailed in response to the correspondence filed on May 14, 2008, which is being treated under 37 CFR 1.53(e) as a petition requesting withdrawal of the Notice to File Corrected Application Papers (Notice), mailed March 18, 2008, insofar as the Notice alleges that Figure 9 was omitted when the application was filed.

The application was filed on November 28, 2007. However, on March 18, 2008, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of November 28, 2007, but advising applicants that Figure 9, as described in the specification, appeared to have been omitted. In addition, the Notice required replacement drawings for Figures 1-4 and 6-8.

In response, on April 14, 2008, petitioners filed an amendment under 37 CFR 1.57(a) and a copy of Figure 9. The Office mailed a Notice of Incomplete Reply on April 25, 2008.

Petitioners filed the present petition in response. Petitioners argue that Figure 9 was filed on November 28, 2007. In support, the petition is accompanied by a copy of applicants' itemized return postcard receipt showing 13 sheets of drawings were received in the Office on November 28, 2007.

The best evidence of what was filed on November 28, 2007 is applicants' postcard receipt. In this case, applicants' postcard receipt identifies 13 sheets of drawings as papers being filed on November 28, 2007. A review of the contents of the official file shows that 13 sheets of drawings were, in fact, filed on November 28, 2007, and are presently in the file. However, none of the 13 sheets of drawings contain a "Fig. 9." Figures 1-8 and 10-16 are present.

Petitioners have not provided persuasive evidence that Figure 9 was present in the Office on November 28, 2007. Therefore, the petition is **dismissed**. The $400.00 petition fee is required and will not be refunded.

The application is being returned to the Office of Patent Application Processing with a filing date of **November 28, 2007.** Figure 9 should not be considered as part of the drawings filed on November 28, 2007. The undersigned has not addressed the sufficiency of the drawings filed on May 14, 2008.

As this application already has a filing date, the examiner of record will consider applicants' amendment under 37 CFR 1.57(a) to add Figure 9, filed April 14, 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HANIFY & KING PROFESSIONAL CORPORATION
1875 K STREET, NW
SUITE 707
WASHINGTON DC 20006

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of
MURATA et al.
Application No. 11/987,221
Filed: November 28, 2007
Attorney Docket No. 7058302001

DECISION ON PETITION

This is a decision on the petition, filed April 29, 2008, which is being treated as a petition under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of November 28, 2007 with an indication that all of the application papers, including Figure 2 of the drawings, were present on filing. The requisite $400.00 petition has been submitted.

The petition is **GRANTED**.

The above-identified application papers were deposited on November 28, 2007.

However, on March 24, 2008 the Office of Initial Patent Examination mailed a formalities letter indicating that while a filing date had been granted to the application papers, the drawing sheet containing Figure 2 of the drawings, as described in the specification, appeared to have been omitted.

In reply, on April 29, 2008, the instant petition was filed and was accompanied by, inter alia, (1) a copy of a return postcard which acknowledges receipt by the United States Patent and Trademark Office (USPTO) on November 28, 2007 of, *inter alia,* 20 sheets of Drawings, and (2) copies of the previously submitted items listed on the date stamped postcard receipt.

Section 503 of the Manual of Patent Examining Procedure (MPEP) states, in part, that "[a] postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon in the USPTO." Accordingly, it is concluded that the application papers received by the USPTO on November 28, 2007 included all 20 sheets of drawings, but the drawing sheet containing Figure 2 was subsequently lost after the application papers were received. The USPTO regrets the error and inconvenience. The Notice of Omitted Item(s) is vacated to the extent that it indicated that Figure 2 was apparently omitted from the original application papers.

The $400.00 petition fee will be credited to Deposit Account 50-4047 (7058302001), as authorized in the petition.

Telephone inquiries concerning this decision may be directed to Brian W. Brown at (571) 272-5338.

The application is being referred to the Office of Patent Application Processing for further processing with Figure 2 filed November 28, 2007, and an indication that all of the original application papers, inclusive of Figure 2 of the drawings, were present on filing.

Brian W. Brown
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

TAROLLI, SUNDHEIM, COVELL, & TUMMINO L. L. P.
SUITE 1700
1300 EAST NINTH STREET
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Kevin J. Boxey	: DECISION ON REQUEST FOR
Patent Number	: 7618056	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/987,295	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **60** 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.
11/987,299	11/29/2007	Yoshifumi Murakami	11-402	5263

7590 12/02/2008
POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER
KIRKLAND III, FREDDIE

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
12/02/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

Repln. Ref: 12/02/2008 BPOWELL 0012080300
DA#:501147 Name/Number:11987299
FC: 9204 $560.00 CR

Adjustment date: 12/02/2008 BPOWELL
11/30/2007 SZEWDIE1 00000067 11987299
02 FC:1111 -510.00 OP
04 FC:1202 -50.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KRATZ, QUINTOS & HANSON, LLP
1420 K STREET NW, SUITE 400
WASHINGTON, DC 20005

COPY MAILED

OCT 08 2008

OFFICE OF PETITIONS

In re Application of	:	
FUKUYOSHI, et al.	:	
Application No. 11/987,324	:	DECISION GRANTING PETITION
Filed: November 29, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 060837A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 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 September 25, 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 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,347	11/29/2007	Yukihiro Ueno	0951-0216PUS1	5485

7590 12/22/2009
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
SULLIVAN, CALEEN O

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
12/22/2009	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 12/24/2009 NFARMER
11/30/2007 SZEUDIEI 00000023 022448 11987347
02 FC:1111 510.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

COPY MAILED

MAR 1 2 2009

OFFICE OF PETITIONS

In re Application of :
Dror Gadot :
Application No. 11/987,359 :
Filed: November 29, 2007 :
Attorney Docket No. 42613 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice), mailed December 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 21, 2008.

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

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

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

By Mail: 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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Dror Gadot	:	
Application No. 11/987,359	:	ON PETITION
Filed: November 29, 2007	:	
Attorney Docket No. 42613	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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 (Notice), mailed December 20, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings and surcharge fee, (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 the Office of Patent Application Processing.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of	:	
Tung-Yuan Yung, et al.	:	
Application No. 11/987,400	:	DECISION ON PETITION
Filed: November 29, 2007	:	
Attorney Docket No. 7000.245	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 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 Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 21, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 22, 2008. The Notice of Abandonment was mailed September 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee, the surcharge, the search fee and the examination fee, (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 Patent Application Processing for appropriate action on the reply received.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/03/2010

Applicant	: Joy Ou	: DECISION ON REQUEST FOR
Patent Number	: 7626403	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/987,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **6** 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/28/2010

Applicant	: Tsung-Yi Hsu	: DECISION ON REQUEST FOR
Patent Number	: 7608529	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/987,445	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,537	11/30/2007	Sang-Min Nam	301/078	6392

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
12/04/2007 MAHMED1 00000002 11987537
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JAN 14 2010

OFFICE OF PETITIONS

In re Application of :
Arthur WU :
Application No. 11/987,591 :
Filed: December 3, 2007 :
Attorney Docket No. **0075-P0588 (GD-112)** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 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 December 12, 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 3727 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. BANGER SHIA
INT'L PATENT OFFICE OF BANG SHAI
102 LINDENCREST COURT
SUGAR LAND, TX 77479-5201

MAILED

JAN 14 2010

OFFICE OF PETITIONS

In re Application of
Arthur WU
Application No. 11/987,591
Filed: December 3, 2007
Attorney Docket No. **0075-P0588 (GD-112)**

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed January 12, 2010.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

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

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

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

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

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

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of Zahirovic :
Application No. 11/987,612 :
Filing Date: December 3, 2007 :
Attorney Docket No. H0610.0411/P411-A :

Decision on Petition

This is a decision in response to the petition filed March 10, 2008, requesting, in effect, that a drawing sheet containing Figures 3 and 4 filed on March 10, 2008, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed December 3, 2007.

The Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" on January 8, 2008. The Notice required the submission of corrected drawings and stated Figures 3 and 4 described in the specification did not appear to be part of the application as filed.

In response, the present petition was filed. Petitioner alleges Figures 3 and 4 were filed with the original application.

The USPTO file for this application includes only 5 sheets of drawings. The file does not contain all six sheets, including the sheet containing Figures 3 and 4, petitioner alleges were filed with the original application. However, petitioner has submitted a postcard receipt acknowledging receipt of six sheets of drawings on December 3, 2007.[1] Therefore, the Office is persuaded that a drawing page containing Figures 3 and 4 was part of the originally filed application but was later misplaced by the Office.

Unfortunately, the record fails to establish the drawing sheet containing Figures 3 and 4 filed March 10, 2008, is *identical* to the drawing sheet filed December 3, 2007. The drawings submitted on March 10, 2008, are corrected drawings. The record fails to indicate whether or

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

not the drawing sheet containing Figures 3 and 4 is identical to the originally filed drawing sheet or is a corrected version of the original drawing sheet.

Petitioner should submit a drawing sheet containing Figures 3 and 4 identical to the originally filed sheet or submit a statement that the drawing sheet filed March 10, 208, is identical to the originally filed drawing sheet.

The Office has credited the $400 petition fee back to petitioner's credit card.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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

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AUG 1 1 2008

In re Application of Zahirovic :
Application No. 11/987,612 : Decision on Petition
Filing Date: December 3, 2007 :
Attorney Docket No. H0610.0411/P411-A :

This is a decision in response to the petition filed July 17, 2008, which is being treated as a petition under 37 CFR 1.53(e).

The petition is **granted**.

The application was filed December 3, 2007.

The Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" on January 8, 2008. The Notice required the submission of corrected drawings and stated Figures 3 and 4 described in the specification did not appear to be part of the application as filed.

A petition was filed March 10, 2008. The Office mailed a decision June 26, 2008, dismissing the petition. The decision stated petitioner had proven a drawing sheet containing Figures 3 and 4 was filed December 3, 2007, and misplaced by the Office. However, the record failed to indicate whether or not the drawing sheet containing Figures 3 and 4 filed with the petition was identical to the originally filed drawing sheet. The Office asked for a copy of Figures 3 and 4 as originally filed. The instant petition includes a copy of Figures 3 and 4 as filed with the Office on December 3, 2007. Therefore, the petition is granted.

The Office of Patent Application Processing will be informed of the instant decision. Thereafter, the Office of Patent Application Processing will process the application with a filing date of December 3, 2007, using the application papers filed on that date and the corrected drawings, including the corrected drawing sheet containing Figures 3 and 4, filed March 10, 2008.

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

COPY MAILED

FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
MATSUBARA et al.	:	
Application No. 11/987,635	:	DECISION ON PETITION
Filed: December 3, 2007	:	
Attorney Docket No. 134863	:	

This is a decision on the petition under 37 CFR 1.53(e), filed January 24, 2008, requesting that the application be accorded a filing date of December 3, 2007, with pages 30 and 32 of the specification as part of the original disclosure.

On December 3, 2007, applicant filed the above-identified application. On January 8, 2008, the Office of Patent Application Processing mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of December 3, 2007, and advising applicant that pages 30 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 January 24, 2008, applicant submitted the present petition, a $400.00 petition fee, pages 30 and 32 of the specification, an executed declaration, a $130.00 surcharge, and an Information Disclosure Statement. Additionally, applicant submitted a copy of applicant's returned, date-stamped postcard receipt acknowledging receipt of "ADS; chk#199866 ($1030); App Trans; Prelim Amend; 47pp Spec/16 Clms/Abst; 9pp Drwgs (Figs. 1-12)" by the USPTO on December 3, 2007.

Upon review of the record, pages 30 and 32 of the specification, deposited on December 3, 2007, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 3, 2007, included pages 30 and 32 of the specification, which were subsequently misplaced in

the USPTO. Therefore, the application, including pages 30 and 32 of the specification was complete on filing and will be accorded a filing date of December 3, 2007.

Accordingly, the petition is GRANTED.

The indication in the Notice to File Missing Parts of Nonprovisional Application that pages 30 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. The $400.00 petition fee will be refunded 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 **December 3, 2007,** using pages 1-29, 31, and 33-47 of the specification filed on that date, and pages 30 and 32 of the specification submitted with the petition on January 24, 2008, 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,655	12/03/2007	Young-Jun Jeon	P58291	2301

7590 10/23/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HJERPE, RICHARD A

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
10/23/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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SEP 29 2009

Oliff & Berridge PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Yashhiro Maeda et al. Application No. 11/987,657 Filed: December 3, 2007 For: POWERTRAIN CONTROL APPARATUS AND METHOD, AND PROGRAM FOR IMPLEMENTING THE CONTROL METHOD	: : : : : : :	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed September 25, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

In light of the preliminary amendment filed May 21, 2009 with the petition, the request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

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

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

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

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 9/29/09

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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON, DC 20036

Mail Date: 04/21/2010

Applicant	: Yasushi Hayashida	: DECISION ON REQUEST FOR
Patent Number	: 7597492	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/987,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **119** 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.
11/987,750	12/04/2007	Yunsik Jeong	RPL-0267	7882

34610 7590 02/13/2009
KED & ASSOCIATES, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

EXAMINER
LOKE, STEVEN HO YIN

ART UNIT	PAPER NUMBER
2818	

MAIL DATE	DELIVERY MODE
02/13/2009	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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KED & ASSOCIATES, LLP
PO BOX 221200
CHANTILLY, VA 20153

In re Application of	**: DECISION ON REQUEST TO**
Yunisk Jeong	**: PARTICIPATE IN THE PATENT**
Application No.: 11/987,750	**: PROSECUTION HIGHWAY**
Filed: 04 December 2007	**: PROGRAM AND PETITION**
Attorney Docket No.: RPL-0267	**: TO MAKE SPECIAL UNDER**
For: ORGANIC LIGHT EMITTING DEVICE	**: 37 CFR 1.102(d)**

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

The request and petition are **GRANTED**.

Discussion

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

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO. Note: where the KIPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the KIPO application with similar claims and the KIPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s) and
    b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;

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

    Further, if a copy of the documents from i or ii above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS; however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the KIPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the KIPO examiner in the KIPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition is assessed as follows:

Conditions 1-7 are considered to have been met. Therefore, the request to participate in the PPH program and petition comply with the requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Darren Schuberg at 571 272-2044.

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

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

Darren Schuberg
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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

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MAY 1 0 2010

OFFICE OF PETITIONS

In re Application of	:	
Chang Lin WEI, et al	:	
Application No. 11/987,756	:	DECISION ON PETITION
Filed: December 4, 2007	:	TO WITHDRAW
Attorney Docket No. 76115-253815	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 3, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Ralph P. Albrecht does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

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

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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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NOV 10 2008

In re Application of	:	
LICARI, Peter J. et al.	:	
Application No. 11/987,810	:	DECISION ON PETITION
Filed: December 04, 2007	:	TO WITHDRAW
Attorney Docket No. **026579-0174**	:	FROM RECORD
	:	

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 04, 2008 and resubmitted September 26, 2008.

The request is **APPROVED**.

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

The request was signed by Michele M. Simkin on behalf of all attorneys of record who are associated with customer No. 22428. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PETER J. LICARI**
c/o KOSAN BIOSCIENCES INCORPORATED
3832 BAY CENTER PLACE
HAYWARD, CA 94545

cc: **JASON M. OKUN**
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,830	12/05/2007	Chul Hee Yoo	Q117999	8264

23373 7590 03/25/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
NGUYEN, THINH T

ART UNIT	PAPER NUMBER
2818	

NOTIFICATION DATE	DELIVERY MODE
03/25/2010	ELECTRONIC

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

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

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

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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

In re Application of	
YOO et al	
Application No.: 11/987,830	**: DECISION ON REQUEST TO**
Filed: 05 December 2007	**: PARTICIPATE IN THE PATENT**
Attorney Docket No. : Q117999	**: PROSECUTION HIGHWAY**
For: WHITE LIGHT EMITTING	**: PROGRAM AND PETITION**
DEVICE AND WHITE LIGHT	**: TO MAKE SPECIAL UNDER**
SOURCE MODULE USING THE SAME	**: 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 23 February 2010, to make the above-identified application special.

The request and petition are **Granted**.

Discussion

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

1. The U.S. application 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 under 35 U.S.C. 119(a)/365(a) 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 under 35 U.S.C. 365(b) to an application filed in the KIPO, or
        ii. validly claims priority under 35 U.S.C. 365(b) 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 under 35 U.S.C. 365(b) to an application filed in the KIPO, or
ii. validly claims priority under 35 U.S.C. 365(b) 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 KR application(s);
   b. An English translation of the allowable/patentable claim(s), and
   c. A statement that the English translation is accurate (if the claims were published in a language other than English);
3. Applicant must:
   a. Ensure that 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 KR 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. A copy of all the office actions (which are relevant to patentability), excluding "Decision to Grant a Patent" from each of the KR application(s) containing the allowable/patentable claim(s);
   b. An English language translation of the KIPO office action; and
   c. A statement that the English translation is accurate (if the office actions are not in the English language);
6. Applicant must submit:
   a. An IDS listing the documents cited by the KIPO examiner in the KIPO office action (unless already filed in this application); and
   b. Copies of all the documents cited in the KIPO office action, except U.S. patents or U.S. patent application publications (unless already filed in this application);
7. A 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.

Any response must be submitted via EFS-Web.

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://uspto.gov/ebc/index.html.

Lee W. Young
TQAS
Technology Center 2800- Semiconductors,
Electrical & Optical Systems & Components

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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.
11/987,859	12/05/2007	Hisayoshi Tsubaki	FJ-2001-041-US-D1	8232

7590 03/30/2009
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER

ART UNIT	PAPER NUMBER
2625	

MAIL DATE	DELIVERY MODE
03/30/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Toni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
03/30/2009 NFARMER 0000166653

CHECK Refund Total: $510.00

Adjustment date: 03/30/2009 NFARMER
12/06/2007 MAHMEDI 00000063 11987859
02 FC:1111 -510.00 OP

FORM PET651G (Rev. 08/07)

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HOLLAND & HART, LLP
P.O. BOX 8749
DENVER, CO 80201

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FEB 01 2010

In re Application of
Robert James Kelly et al.
Application No. 11/987,939
Filed: December 6, 2007
Attorney Docket No. 58269.830012.US2

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 10, 2009.

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

A review of the file record indicates that the power of attorney to Holland & Hart, LLP and all attorneys/agents associated with customer number 21586 have been revoked by the assignee of the patent application on December 15, 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: VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON, TX 77002-6760

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/987,968	12/06/2007	Eyal Gura	42450	8879

67801 7590 05/07/2010
MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

EXAMINER
HERNDON, HEATHER R

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
05/07/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARTIN D. MOYNIHAN
PRTSI Inc.
P. O. Box 16446
Arlington VA 22215

In re Application of:
GURA, Eyal
Application No. 11/987,968
Filed: December 6, 2007
For: HOT-LINKED IMAGES AND METHODS AND AN APPARATUS FOR ADAPTING EXISTING IMAGES FOR THE SAME

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed on February 22, 2008, requesting acceptance of color drawings.

The petition requests that the color drawings/photographs be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), explanation why the color drawings are necessary, 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee. However, no color drawings/photographs have been filed in the instant application. Furthermore, the petition lacks an explanation why the color drawings are necessary, and the specification lacks the required notification described above. Pursuant to M.P.E.P. 714(II), the amendment to the specification "must begin on a separate sheet entitled 'Amendments to the Specification.'" Accordingly, the amendment to "page 6 at line 4" has not been entered.

Accordingly, the petition is **DISMISSED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

/Eddie C. Lee/

Eddie C. Lee
Quality Assurance Specialist, TC 2100
(571) 272-1732

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

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NOV 2 0 2008

OFFICE OF PETITIONS

In re Application of
Jung Seok Pyo et al.
Application No. 11/987,990
Filed: December 6, 2007
Attorney Docket No: 05823.0289

ON PETITION

This is a decision on the petition filed October 21, 2008 under 37 CFR 1.181, to withdraw the holding of abandonment.

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

The application was held abandoned on March 17, 2008, for failure to file a timely response to the Notice to File Corrected Application Papers mailed January 14, 2008. A two month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on September 23, 2008.

Petitioner asserts that a response to the Notice to File Corrected Application Papers was filed on April 14, 2008 with a one month extension of time and provides a copy of the response and a copy of a post card receipt, dated April 14, 2008 by the USPTO, as proof of timely filing.

A review of the record and of the materials filed with the instant petition, it appears that the application serial number was incorrectly identified on the response. However, while the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. As such, the papers were not matched.

In view of the evidence submitted, it can be concluded that a response to the Notice to File Corrected Application Papers was timely filed.

Accordingly, the Notice of Abandonment mailed September 23, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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2 0 AUG 2009

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
SCHWOERER, Artur	:	
Application No.:11/988,062	:	
PCT No.: PCT/EP2006/006461	:	DECISION ON REQUEST
Int. Filing Date: 03 July 2006	:	
Priority Date: 04 July 2005	:	
Attorney Docket No.: 088000-001400US	:	
For: CEILING FORMWORK SYSTEM		

This decision is issued in response to applicant's "Response to Notification of Defective Response" filed 12 June 2009 notifying the Office that the name of the sole inventor is ARTUR Schwoerer as indicated on the declaration (filed 17 March 2009) rather than Arthur Schwoerer as indicated on the published international application. Applicant's request has been treated under 37 CFR 1.181. No petition fee is due.

Petitioner asserts that the name of the sole inventor is ARTUR Schwoerer and that "the spelling listed in the PCT application and publication was typographical error." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, petitioner's explanation of the difference in the spelling of the sole inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

26 JUN 2009

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LAHIVE & COCKFIELD, LLP
One Post Office Square
Boston, Massachusetts 02109-2127

In re Application of	DECISION ON
LEUKES et al	
Application No.: 11/988,071	
PCT No.: PCT/IB2006/052201	
Int. Filing Date: 30 June 2006	PAPERS FILED
Priority Date: 30 June 2005	
Attorney's Docket No.: SFW-016US	
For: PRODUCTION OF SECONDARY METABOLITES	
USING CAPILLARY MEMBRANES	UNDER 37 CFR 1.42 and 1.47

This is a decision on the "PETITION PURSUANT TO 37 CFR 1.42 AND 37 CFR 1.47" filed 16 March 2009.

BACKGROUND

On 28 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 16 January 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 16 January 2009, applicants filed a declaration on 16 March 2009 signed by Sheena Janet FRASER and Wade EDWARDS but without the signature of inventor Winston Daniel LEUKES (now deceased)

DISCUSSION

37 CFR 1.42

The declaration is unacceptable at this time because it is lacking a signature on behalf of the deceased inventor Winston Daniel LEUKES. Because Mr. LEUKES is deceased, actions required by him such as the signature on the declaration should be performed by Mr. LEUKES' heir(s), executor, administrator or comparable legal representative.

Petitioner's argument that no legal representative for Dr. Leukes' estate has yet been appointed by the South African courts and due to a backlog in the courts, it is unlikely that a legal representative will be appointed in a reasonable amount of time is not a compelling reason to accept the declaration without a signature from some type of legal representative for Dr. Leukes.

Petitioner is required to identify a legal representative for Dr. Leukes and then present the application papers to him/her for the required signature.

37 CFR 1.47(a):

In this instance, 37 CFR 1.47 does not apply because no legal representative has been identified that either refuses to sign the required documents after a bona fide presentation of the application papers or can not be located or found after a diligent search. Note section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.)

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

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

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

Leonard Smith
PCT Legal Examiner

UNITED STATES PATENT and TRADEMARK OFFICE

19 NOV 2009

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One Post Office Square
Boston, Massachusetts 02109-2127

In re Application of	DECISION ON RENEWED
LEUKES et al	
Application No.: 11/988,071	
PCT No.: PCT/IB2006/052201	
Int. Filing Date: 30 June 2006	PAPERS FILED
Priority Date: 30 June 2005	
Attorney's Docket No.: SFW-016US	
For: PRODUCTION OF SECONDARY METABOLITES	
USING CAPILLARY MEMBRANES	UNDER 37 CFR 1.42

This is a decision on the "SUPPLEMENTAL RESPONSE TO... DESIGNATED/ELECTED OFFICE," which is being treated as a request under 37 CFR 1.42 filed 17 August 2009.

BACKGROUND

In a decision from this Office dated 26 June 2009, the request filed on 16 March 2009 was not accepted.

On 17 August 2009, applicants filed a renewed request accompanied with, inter alia, an executed declaration signed by Mr. P. G. Lourens, the legal representative, of deceased co-inventor Dr. Winston Daniel Leukes.

DISCUSSION

A review of the application file reveals that the declaration does not comply with 37 C.F.R. §1.63 since both the mailing address of the legal representative and deceased inventor is required.

Because the co-inventor Winston Daniel Leukes is deceased and Mr. P. G. Lourens has been appointed as the legal representative for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventors citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall <u>also</u> state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance, applicants have only listed the legal representative's citizenship, residence and mailing address but the citizenship, residence and mailing address of the deceased inventor has not been provided in the declaration as required under 37 C.F.R. §1.63.

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273- 0459

UNITED STATES PATENT and TRADEMARK OFFICE

0 3 MAR 2010

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LAHIVE & COCKFIELD, LLP
One Post Office Square
Boston, Massachusetts 02109-2127

In re Application of	:	DECISION ON RENEWED
LEUKES et al	:	
Application No.: 11/988,071	:	
PCT No.: PCT/IB2006/052201	:	
Int. Filing Date: 30 June 2006	:	PAPERS FILED
Priority Date: 30 June 2005	:	
Attorney's Docket No.: SFW-016US	:	
For: PRODUCTION OF SECONDARY METABOLITES	:	
USING CAPILLARY MEMBRANES	:	UNDER 37 CFR 1.42

This is a decision on the "RESPONSE TO RENEWED PETITION UNDER... /ELECTED OFFICE," filed 11 January 2010.

BACKGROUND

In a decision from this Office on 19 November 2009, the request filed on 17 August 2009 was dismissed. The decision stated that the declaration was improperly executed.

On 11 January 2010, applicants filed the present renewed submission under 37 CFR §1.42 accompanied with a new executed declaration.

DISCUSSION

The renewed submission includes, a newly executed declaration signed by Mr. P.G.. Lourens as Legal Representative of the deceased inventor (Winston Daniel LEUKES) and the declaration sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **11 January 2010**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273- 0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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0 6 MAY 2008

Edward Langer
c/o Shiboleth Yisraeli Roberts Zisman & Co.
1 Penn Plaza-Suite 2527
New York, NY 10119

In re Application of
OSTROVOSKY, Valery
Application No.: 11/988,072
PCT No.: PCT/IL06/00772
Int. Filing Date: 03 July 2006
Priority Date: 05 July 2005
Attorney Docket No.: 2274
For: MULTI-LAYERED PRODUCT FOR PRINTED CIRCUIT BOARDS, AND A PROCESS FOR CONTINUOUS MANUFACTURE OF SAME

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 26 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/988,082	03/11/2009	Klaus Witt	20041577-2	2482

7590 12/04/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER

ART UNIT	PAPER NUMBER
2856	

NOTIFICATION DATE	DELIVERY MODE
12/04/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

25 MAR 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YOUNG & THOMPSON
209 Madison Street, Suite 500
ALEXANDRIA VA 22314

In re Application of: D'ANDREA, et al.	:	
U.S. Application No.: 11/988,094	:	DECISION REGARDING
PCT No.: PCT/EP2006/006314	:	SUBMISSION UNDER
International Filing Date: 29 June 2006	:	37 CFR 1.42
Priority Date: 29 June 2005	:	
Attorney's Docket No.: 2503-1161-1	:	
For: Compounds Modulating VEGF	:	
Receptor And Uses Thereof	:	

This decision is issued in response to applicants' submission on 06 August 2008 of a declaration executed on behalf of deceased inventor Arturo LEONE, considered herein under 37 CFR 1.42 and 1.497.

BACKGROUND

On 29 June 2006, applicants filed international application PCT/EP2006/006314. The international application claimed a priority date of 29 June 2005, and it designated the United States. On 04 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 31 December 2007 (29 December 2007 was a Saturday).

On 31 December 2007 applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee

On 06 August 2008, applicants filed the declaration considered herein. The declaration is executed by the five surviving inventors and on behalf of deceased inventor Arturo LEONE by three persons identified as the legal representatives of the deceased inventor: Patrizia ROSELLI, Marina LEONE, and Stefania LEONE.

DISCUSSION

37 CFR 1.42 states in part:

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

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

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

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative(s) must be identified on the declaration (as well as the mailing address and residence information of the legal representative(s) and all other information required under 37 CFR 1.497).

Here, the declaration filed 06 August 2008 includes the required citizenship, residence, and mailing address information for Patrizia ROSELLI, Marina LEONE, and Stefania LEONE, the persons signing the declaration on behalf deceased inventor Arturo LEONE, and it identifies these persons as the "legal representative" of the deceased inventor. The declaration also includes the citizenship of the deceased inventor and all other information required under 37 CFR 1.497.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Arturo LEONE is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 August 2008.

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

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

Mail Date: 04/21/2010

Applicant	: Kazutsugu Suita	: DECISION ON REQUEST FOR
Patent Number	: 7637021	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/988,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2008	: 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/05/10

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 11988172 Patent No.: 7699978

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: Claims 4 and 6 are duplicate claims except for their dependencies, and are printed in their proper order in the patent.

Walter D. Griffin
SPE

1797
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

Date Mailed : 05/12/10

Patent No. : 7699978 B2
Patent Issued : 04/20/10
Docket No. : **28971U**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 04/28/10; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/05/10

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 11988172 Patent No.: 7699978

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: Claims 4 and 6 are duplicate claims except for their dependencies, and are printed in their proper order in the patent.

Walter D. Griffin
SPE

1797
Art Unit

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

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

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OFFICE OF PETITIONS

Applicant: Mougin et al.
Appl. No.: 11/988,179
International Filing Date: June 30, 2006
Title: NEUTRALISED CATIONIC POLYMER, COMPOSITION CONTAINING SAID POLYMER AND A COSMETIC TREATMENT METHOD
Attorney Docket No.: 05725.1683
Pub. No.: US 2009/0202465 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. Applicant requests that the application be republished because the patent application publication contains material error in containing various errors in chemical formulae.

The request is DISMISSED.

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

The errors due to faulty optical character recognition are, in this case, not Office error. The errors are 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

[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).

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" 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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David E. Heiser
E.I Du Pont De Nemours And Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19898

Mail Date: 04/21/2010

Applicant	: Velliyur Nott Mallikarjuna Rao	: DECISION ON REQUEST FOR
Patent Number	: 7659435	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/988,200	: 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 **86** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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3 1 AUG 2009

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IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

In re Application of:	:	
SCHEIN, Herbert, et al.	:	
U.S. Application No.: 11/988,224	:	DECISION ON PETITION UNDER
PCT No.: PCT/EP2006/007624	:	37 CFR 1.47(a)
International Filing Date: 02 August 2006	:	
Priority Date: 05 August 2005	:	
Atty's Docket No.: RUF-07-1513	:	
For: APPARATUS AND METHOD FOR	:	
CHARGING A FIRST BATTERY	:	
FROM A SECOND BATTERY	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 24 July 2009. Applicants have paid the required petition fee.

BACKGROUND

On 02 August 2006, applicants filed international application PCT/EP2006/007624. The international application claimed a priority date of 05 August 2005, and it designated the United States. On 15 February 2007, the International bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 05 February 2008.

On 03 January 2008, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an English translation of the international application.

On 24 March 2009, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 24 July 2009, applicants a response to the Notification Of Missing Requirements (with required extension fee). The response include a partially executed declaration and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Dejan ILIC, whom applicants assert has refused to execute the application. Applicants' 24 July 2009 also included the authorization to charge

Deposit Account No. 50-2719 for required fees. Pursuant to this authorization, applicants will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have provided the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed declarations executed by three of the four inventors of record, and the declarations include, as required, an unsigned signature block for the non-signing inventor, Dejan ILIC. These declarations may be accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventor, Dejan ILIC. Accordingly, item (3) of a grantable petition is satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

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

Here, applicants have provided firsthand statements from Dr. Michael Eberle and Dr. Martin Krebs, with supporting documents, providing an acceptable showing that requests for signature, accompanied by copies of the complete application, have been provided to the non-signing inventor and that, in a telephone conversation with Dr. Eberle, the inventor expressly indicated that he would not sign the application documents as requested. These materials provide an acceptable showing that the non-signing inventor has refused to execute the application. Item (4) is therefore satisfied.

CONCLUSION

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

The application is accepted without the signature of non-signing inventor Dejan ILIC.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 July 2009.

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

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3 1 AUG 2009

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Dejan ILIC
Badgasse 5/26
73479 Ellwangen
GERMANY

In re Application of: SCHEIN, Herbert, et al.
U.S. Application No.: 11/988,224
PCT No.: PCT/EP2006/007624
International Filing Date: 02 August 2006
Priority Date: 05 August 2005
Atty's Docket No.: RUF-07-1513
For: APPARATUS AND METHOD FOR CHARGING A FIRST BATTERY FROM A SECOND BATTERY

Dear Dr. ILIC:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

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

Counsel Of Record:
T. Daniel Christenbury
IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

1 1 MAR 2008

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RICHARD D. CLARKE
LAW OFFICE OF RICHARD D. CLARKE
3755 AVOCADO BLVD., #1000
LA MESA CA 91941-7301

In re Application of	:	
SCHULTZ (Deceased) et al.	:	DECISION ON
Application No.: 11/988,243	:	
PCT No.: PCT/US06/23026	:	REQUEST
Int. Filing Date: 12 June 2006	:	
Priority Date: 05 July 2005	:	UNDER 37 CFR 1.42
Attorney Docket no.: 07-MPT/101 US	:	
For: MULTIPLE NOZZLE VENTURI SYSTEM	:	
FOR WATERCRAFT	:	

This is a decision on applicant's declaration filed in the United States Patent and Trademark Office (USPTO) on 02 January 2008 treated as a request under 37 CFR 1.42.

BACKGROUND

On 02 January 2008, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee and declaration of the inventors, identifying co-inventor Terrence L. Smith, as the legal representative of deceased inventor Wilderich C. Schultz.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal

representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration does not identify Terrence L Smith as the legal representative of the estate of deceased inventor Wilderich C. Schultz and thus, the declaration is defective. The declaration must state the relationship and state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497(a) and (b).

What is required is a declaration executed by Terrence L. Smith, which identifies him as legal representative for deceased inventor Wilderich C. Schultz and must provide the legal representative's citizenship, residency and mailing address and identify the deceased inventor, providing his citizenship, former residency and mailing address on the declaration. Any person acting as a legal representative of a deceased or incapacitated inventor should ensure that he is properly acting in such capacity.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

Applicant is required to correct the above-noted defects including the furnishing of a oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

1 9 JUN 2008

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RICHARD D. CLARKE
LAW OFFICE OF RICHARD D. CLARKE
3755 AVOCADO BLVD., #1000
LA MESA CA 91941-7301

In re Application of	:	
SCHULTZ (Deceased) et al.	:	DECISION ON
Application No.: 11/988,243	:	
PCT No.: PCT/US06/23026	:	REQUEST
Int. Filing Date: 12 June 2006	:	
Priority Date: 05 July 2005	:	UNDER 37 CFR 1.42
Attorney Docket no.: 07-MPT/101 US	:	
For: MULTIPLE NOZZLE VENTURI SYSTEM	:	
FOR WATERCRAFT	:	

This is a decision on applicant's renewed request under 37 CFR 1.42 along with the newly executed declaration filed in the United States Patent and Trademark Office (USPTO) on 08 May 2008.

BACKGROUND

On 02 January 2008, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee and declaration.

On 11 March 2008, a decision on the request was mailed indicating the declaration did not properly identify Terrence L Smith as the legal representative of the estate of deceased inventor Wilderich C. Schultz and thus, the declaration was defective. Applicant was advised that the declaration must state the relationship and the country of citizenship for both the deceased inventor and the legal representative, and the residency and mailing address for the legal representative, to meet the requirements for compliance with 37 CFR 1.497(a) and (b).

DISCUSSION

The declaration submitted with the renewed petition identifies Terrence L Smith as the legal representative of the estate of deceased inventor Wilderich C. Schultz ands states the relationship, country of citizenship, residency and mailing address for the legal representative. The declaration meets the requirements for compliance with 37 CFR 1.497(a) and (b).

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The declaration by the legal representative for deceased inventor Wilderich C. Schultz submitted on 08 May 2008 is accepted as a proper declaration under 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 08 May 2008.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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Heiser, David E.
E. I. Du Pont De Nemours And Company
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4417 Lancaster Pike
Wilmington, DE 19805

Mail Date: 04/21/2010

Applicant	: Velliyur Nott Mallikarjuna Rao	: DECISION ON REQUEST FOR
Patent Number	: 7663007	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/988,259	: 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 **43** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

1 OCT 2009

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
SCHNEEBERGER et al.	:	
Serial No.: 11/988,263	:	DECISION ON
PCT No.: PCT/CH06/00343	:	
Int. Filing Date: 26 June 2006		PETITION UNDER
Priority Date: 06 July 2005	:	
Attorney's Docket No.: 016749-000400US	:	37 CFR 1.182
For: LINEAR GUIDING SYSTEM COMPRISING	:	
A POSITIONING MEASURING DEVICE	:	

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 07 July 2009 in the United States Patent and Trademark Office (USPTO), which is being treated as a petition under 37 CFR 1.182 to correct an inventor's name.

BACKGROUND

On 24 February 2009, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty-month period, was required.

On 11 March 2009, in response to the Notification of Missing Requirements, applicant filed a declaration executed by the inventors.

On 17 April 2009, a Notification of Defective Response was mailed to applicant indicating that declaration did not comply with 37 CFR 1.497(a) and (b) because the first inventor's first name as listed on the declaration did not correspond to the name as listed on the published international application. Applicant was given one month from the date of the Notification within which to reply or the time remaining in the Notification of Missing Requirements.

On 07 July 2009, applicant filed a response along with a request for a two month extension of time.

DISCUSSION

At the outset it is noted that a response to the Notification of Defective Response was due one month from the mail date or on 17 May 2009. Applicant responded on 07 July 2009, which is considered a response to the 24 February 2009 Notification of Missing Requirements, which required a three-month extension of time. The fee for such extension of time is $1,110 and will be charged to applicant's deposit account per his authorization on the petition for extension of time under 37 CFR 1.136(a). Applicant's response is considered a petition under 37 CFR 1.182 to correct the inventor's name.

The published international application listed the first inventor as Martin Schneeberger. The declaration submitted on 11 March 2009 identified the first inventor's name as Hans Martin Schneeberger. The Notification of Defective Response correctly indicated the defect in the declaration and asked for clarification. Applicant, through counsel, provided an explanation of his first name on 07 July 2009. Applicant's explanation that the first name of the first inventor is Hans is accepted and noted for the record.

The explanation along with the petition fee of $400, to correct the inventor's name is the proper reply to the Notification of Defective Response. The reply was filed on 07 July 2009, which was beyond the one month period as set forth in the 17 April 2009 Notification of Defective Response. As applicant provided authorization to charge for any fees pursuant to 37 CFR §§1.17(a) and 1.136(a) on 07 July 2009, the petition fee of $400 will be charged to applicant's deposit account.

CONCLUSION

The application will be forwarded to the United States Designated/Elected Office for further processing.

The declaration filed on 11 March 2009 is acceptable and in compliance with 37 CFR 1.497(a) and (b). The petition fee of $400 and the fee for the three-month extension of time ($1110) will be charged to applicant's deposit account.

The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 11 March 2009.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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25 JAN 2010

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

In re Application of FINTER, Jürgen, et al. Application No.: 11/988,290 PCT No.: PCT/EP2006/093891 Int. Filing Date: 05 July 2006 Priority Date: 05 July 2005 Att. Docket No.: 135135 For: LOW-TEMPERATURE IMPACT RESISTANT THERMOSETTING EPOXIDE RESIN COMPOSITIONS WITH SOLID EPOXIDE RESINS	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to request under 37 CFR 1.497(d), filed in the United States Patent and Trademark Office on 09 November 2009.

BACKGROUND

On 22 June 2009, applicants supplied a declaration of the inventors and the surcharge for filing the search fee, examination fee or oath or declaration after 30 months from the priority date.

On 18 September 2009, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required and that inventor Finter on the declaration was not listed on the international application.

On 09 November 2009, applicants filed this request under 37 CFR 1.497(d).

DISCUSSION

Applicants file this request to add Jürgen Finter, as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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1 3 NOV 2009

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23557
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. Box 142950
Gainesville, Fl 32614

In re Application of
KAY, Heidi
U.S. Application No.: 11/988,315
PCT No.: PCT/US2006/026401
Int. Filing Date: 06 July 2006
Priority Date: 06 July 2005
Attorney's Docket No.: USF-219XC1
For: MATERIALS AND METHODS FOR SCREENING, DIAGNOSIS AND PROGNOSIS OF CONDITIONS ASSOCIATED WITH STAT PROTEIN EXPRESSION

DECISION

The decision is in response to the petition under 37 CFR 1.47(b) submitted on 11 September 2009.

BACKGROUND

On 11 February 2009, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Petitioner was given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 11 September 2009, the 37 CFR 1.47(b) applicant submitted the instant petition which was accompanied by, *inter alia*, a $200.00 petition fee; a $65.00 surcharge fee; a five-month extension and $1,175.00 extension fee; a declaration signed by the 37 CFR 1.47(b) applicant; declarations by Stephen Christ and Doran R. Pace; and other documentary evidence in support of the petition.

DISCUSSION

The 37 CFR 1.47(b) applicant claims that Dr. Heidi Kay refuses to cooperate and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 11 February 2009.

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof

that the inventors refuse to execute the application or cannot be located, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The 37 CFR 1.47(b) applicant submitted the $200.00 petition fee.

Concerning item (2), the 37 CFR 1.47(b) applicant provided declarations by Stephen Christ and Doran R. Pace and other documentary evidence showing that a complete copy of the subject application and a declaration was provided to Ms. Kay's and her attorney, Mr. Herb Allen. The nonsigning inventor has not responded to the 37 CFR 1.47(b) applicant's requests despite repeated attempts to have her cooperate. This lack of a response constitutes a refusal as contemplated by section 409.03(d)(II) of the MPEP.

The last known address of the inventor was provided.

The 37 CFR 1.47(b) applicant includes a statement of irreparable damage in the petition.

Therefore, items (1), (2), (3) and (6) of 37 CFR 1.47(b) are complete.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration signed by Ms. Valerie L. McDevitt as Director, Division of Patents and Licensing at the University of South Florida. The declaration provides the address of the 37 CFR 1.47(b) applicant as well as the name, address and citizenship of the nonsigning inventor. However, the declaration is not acceptable for the following reason.

Section 324[1] of the MPEP states that where an organization such as a university is the 37 CFR 1.47(b) applicant, the submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. The position of Director is <u>not</u> presumed to have the authority to sign for a domestic organization. The declaration also does not set forth that Ms. McDevitt is authorized (or empowered) to act on behalf of the assignee. Thus, evidence of Ms. McDevitt's authority to sign the declaration for the assignee is required.

Item (4) of 37 CFR 1.47(b) is not yet satisfied.

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[1] The 37 CFR 1.47(b) applicant must follow the procedures of section 324 of the MPEP when the declaration is being signed on behalf of an assignee. *See* MPEP § 409.03(b)(A).

With regards to item (5), the 37 CFR 1.47(b) applicant claims proprietary interest by virtue of an employment agreement with Dr. Kay. A copy of the signed employment agreement along with a copy of the University of South Florida Regulations on Inventions was provided. Counsel states in the petition that the 37 CFR 1.47(b) applicant has sufficient proprietary interest "by virtue of Dr. Kay's use of University of South Florida support and by virtue of the invention being made in the field or discipline in which Dr. Kay was employed by the University of South Florida."

Section 409.03(f) of the MPEP discusses the evidence needed when claiming sufficient proprietary interest through an employment agreement and states, in part:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. **If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met.** A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. **When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.** (Emphasis added).

Here, the 37 CFR 1.47(b) applicant has not submitted a statement of a person having **firsthand** knowledge of the facts that the subject invention was made by Dr. Kay while employed by the University of South Florida and that the invention was made within the scope of the inventor's duties. The statement by counsel in the petition is insufficient in this regard as the requisite firsthand knowledge of the facts is lacking.

For these reasons, item (5) of 37 CFR 1.47(b) is also not yet satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time are available.

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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

01 APR 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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23557
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. Box 142950
Gainesville, Fl 32614

In re Application of KAY, Heidi U.S. Application No.: 11/988,315 PCT No.: PCT/US2006/026401 Int. Filing Date: 06 July 2006 Priority Date: 06 July 2005 Attorney's Docket No.: USF-219XC1 For: MATERIALS AND METHODS FOR SCREENING, DIAGNOSIS AND PROGNOSIS OF CONDITIONS ASSOCIATED WITH STAT PROTEIN EXPRESSION	**DECISION**

The decision is in response to the renewed petition under 37 CFR 1.47(b) submitted on 16 February 2010.

BACKGROUND

On 13 November 2009, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicant was given two months to respond with extensions of time available.

On 16 February 2010, the 37 CFR 1.47(b) applicant submitted a renewed petition which was accompanied by, *inter alia*, a declaration of Valerie L. McDevitt, a declaration executed by the 37 CFR 1.47(b) applicant on behalf of the nonsigning inventor, and a one-month extension and fee.

DISCUSSION

The 37 CFR 1.47(b) applicant claims that the sole inventor, Dr. Heidi Kay, refuses to cooperate.

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventors refuse to execute the application or cannot be located, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the

parties or to prevent irreparable damage.

Items (1), (2), (3) and (6) of 37 CFR 1.47(b) were previously satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration signed by Ms. McDevitt as Director, Division of Patents and Licensing at the University of South Florida in the initial petition filed 11 September 2009. However, the declaration was not accepted as evidence of Ms. McDevitt's authority to sign the declaration for the assignee was lacking. The position of Director is not presumed to have the authority to sign for an organization. MPEP § 324.

In the renewed petition, the 37 CFR 1.47(b) applicant provided a new declaration signed by Ms. McDevitt on behalf of the 37 CFR 1.47(b) applicant. Ms. McDevitt signed the declaration as the Assistant Vice President for Research in the Division of Patents and Licensing. This position is presumed to have the authority to sign for an organization. *See* MPEP § 324. The name, residence, mailing address and citizenship of the inventor are recorded on the declaration.

Item (4) of 37 CFR 1.47(b) is now satisfied.

With regards to item (5), the 13 November 2009 decision requested a statement of a person having firsthand knowledge of the facts that the subject invention was made by Dr. Kay while employed by the University of South Florida and that the invention was made within the scope of the inventor's duties.

In the subject response, the 37 CFR 1.47(b) applicant has provided the requested statement by Ms. McDevitt detailing that Dr. Kay made the invention while employed by the University of South Florida and that the invention was made within the scope of the inventor's duties. Ms. McDevitt claims direct firsthand knowledge of the facts recited in her declaration.

The 37 CFR 1.47(b) applicant met the requirements of section 409.03(f) of the MPEP and has demonstrated sufficient proprietary interest in the above-captioned application. Item (5) of 37 CFR 1.47(b) is now satisfied.

All of the requirements of 37 CFR 1.47(b) are complete.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is hereby **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in

the papers filed 11 September 2009 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 06 July 2006 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 February 2010.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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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01 APR 2010

Dr. Heidi Kay
7934 Lobelia Lane
Springfield, VA 22152

In re Application of
KAY, Heidi
U.S. Application No.: 11/988,315
PCT No.: PCT/US2006/026401
Int. Filing Date: 06 July 2006
Priority Date: 06 July 2005
Attorney's Docket No.: USF-219XC1
For: MATERIALS AND METHODS FOR SCREENING, DIAGNOSIS AND PROGNOSIS OF CONDITIONS ASSOCIATED WITH STAT PROTEIN EXPRESSION

Dr. Kay:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. Box 142950
Gainesville, Fl 32614

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Alexandria, VA 22313-1450
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11 JAN 2008

Vinson & Elkins
First City Tower
1001 Fannin Street, Suite 2500
Houston, TX 77002-6760

In re Application of GILDENBERG, Phillip L. Application No.: 11/988,333 PCT No.: PCT/US05/43154 Int. Filing Date: 30 November 2005 Priority Date: 01 December 2004 Attorney Docket No.: FRA689/4-010WO For: SYSTEM AND METHOD FOR TENSIONING A SUTURE	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 11 July 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

0 9 APR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lynda L. Calderone
Flaster/Greenberg P.C.
8 Penn Center
1628 John F. Kennedy Blvd., 15th Floor
Philadelphia, PA 19103

Dear Ms. Calderone:

This letter is in response to your communication received 23 January 2008, requesting the change of the entity status of national stage application **11/988,334.**

Applicant letter states that the national stage application was erroneously filed as a small entity and would like to pay the additional fees to reflect a large entity. The United States Designated Office/Elected Office (DO/EO/US) records show that the communication has satisfied the requirements set forth under 37 CFR 1.28 1 (c)(2) by providing a statement, a copy of the check based on the filing of small entity and authorizing the DO/EO/US to charge the additional fees for a large entity to Deposit Account No. 50-3541. The fees will be charged as follows:

Fee Code	Fee	Additional Fee
1631	Basic National Stage Fee	$155.00
1632	National Stage Search Fee	$255.00
1633	National Stage Examination Fee	$155.00

Accordingly, the request to change the status from small to large entity is **GRANTED.**

SDuncan

Stacy Duncan
Paralegal Specialist
PCT Legal Office
Tel: (571) 272-4989

Leonard Smith
Supervisory Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

1 2 JAN 2009

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McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, D.C. 20005-3096

In re Application of	:	
KHAMIZOV et al.	:	
U.S. Application No. 11/988,372	:	COMMUNICATION
PCT No.: PCT/IB06/01893	:	REGARDING
Int. Filing Date: 29 June 2006	:	SUBMISSION UNDER 37 CFR 1.42
Priority Date: 07 July 2005	:	
Attorney Docket No.: 051785-0026	:	
For: ELECTROKINETIC MICROPUMP	:	

This communication is issued in response to the declaration filed 07 May 2008, which is being treated as a Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 29 June 2006, applicant filed international application PCT/IB06/01893. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 29 March 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 January 2007.

On 07 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee; a translation of the international application; and a preliminary amendment.

On 07 May 2008, applicant filed a declaration executed by the four joint inventors and Ruslan Khazhsetovich Khamizov, on behalf of deceased inventor, Alexandr Alexandrovich Voronov.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor,

> administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 07 May 2008 was executed by Ruslan Khazhsetovich Khamizov as "legal representative" of deceased inventor, Alexandr Alexandrovich Voronov. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for the legal representative **and** the name and citizenship of the deceased inventor. Here, the filed declaration does not comply with 37 CFR 1.497(b)(2) in that it does not provide separate citizenship information for the deceased inventor.

Because the declaration submitted does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.497 and 1.42.

CONCLUSION

For the reasons discussed above, the request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a). A proper response must include a new declaration in compliance with 37 CFR 1.497 executed by the legal representative and including all the required information discussed above.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450,

with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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0 2 JUN 2009

McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, D.C. 20005-3096

In re Application of	:	
KHAMIZOV et al.	:	
U.S. Application No. 11/988,372	:	COMMUNICATION
PCT No.: PCT/IB06/01893	:	REGARDING
Int. Filing Date: 29 June 2006	:	SUBMISSION UNDER 37 CFR 1.42
Priority Date: 07 July 2005	:	
Attorney Docket No.: 051785-0026	:	
For: ELECTROKINETIC MICROPUMP	:	

In a decision mailed by this Office on 12 January 2009, the declaration filed by applicant on behalf of deceased inventor Alexandr Alexandrovich Voronov was dismissed for failure to include all the information required under 37 CFR 1.497.

On 11 March 2009, applicant filed a response to the previous communication that was accompanied by a revised declaration. The declaration submitted on 11 March 2009 identifies the deceased inventor and states the deceased inventor's country of citizenship and residence, is signed by Ruslan Khazhsetovich Khamizov as "Legal Representative," states his/her relationship to the deceased (i.e., Legal Representative), and provides the Legal Representative's country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

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

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/988,384	01/07/2008	Bveong Moon Jeon	46500-000550/US/NPC	5749

30593 7590 09/28/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/28/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
JEON, BVEONG MOON et al.	:	DECISION ON REQUEST TO
Application No. 11/988,384	:	PARTICIPATE IN PATENT
Filed: January 7, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 46500-000550/US/NPC	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

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

The request and petition are **DISMISSED**.

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

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

The request to participate in the PPH program and petition is deficient as follows:

It is not clear whether petitioner has complied with item 2 above. An allowed claim has been provided for KIPO application 10-2008-7003052 and correspondence to the claim of the instant

application shown. However, the relationship of the above KIPO application and PCT/KR2006/002699 for which priority is claimed has not been established. In response to this decision, Requestor should establish the relationship between the application containing the allowed claims and that for which priority is claimed.

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

Any response must be submitted via EFS-web.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

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

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

D.21

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.
11/988,384	01/07/2008	Bveong Moon Jeon	46500-000550/US/NPC	5749

30593 7590 12/30/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2621	

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.

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P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
JEON, BVEONG MOON et al.	:	DECISION ON REQUEST TO
Application No. 11/988,384	:	PARTICIPATE IN PATENT
Filed: January 7, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No.**46500-000550/US/NPC**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the renewed request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 20, 2009 to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

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

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

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

D.2

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.
11/988,385		Byeong Moon JEON	46500-000550/US/NPB	5750

30593 7590 08/13/2009
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER

ART UNIT	PAPER NUMBER
2421	

MAIL DATE	DELIVERY MODE
08/13/2009	PAPER

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

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

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Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of: Byeong JEON, et al.
Application No. 11/988,385
Filed: January 7, 2008
For: METHOD FOR MODELING CODING INFORMATION OF A VIDEO SIGNAL TO COMPRESS/DECOMPRESS THE INFORMATION

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

MAILED

AUG 13 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

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 June 10, 2009, to make the above-identified application special.

The petition is **GRANTED.**

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

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

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

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

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

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

(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

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

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

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

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

The application is undergoing pre-examination processing. Once it is released for examination, the application will be forwarded to the examiner for action on the merits commensurate with this decision.

/Hassan Kizou/
Hassan Kizou
Quality Assurance Specialist
Technology Center 2400

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2 2 JAN 2008

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

In re Application of SUGAWA et al	:	
U.S. Application No.: 11/988,388	:	
PCT Application No.: PCT/JP2006/313382	:	
Int. Filing Date: 05 July 2006	:	
Priority Date Claimed: 05 July 2005	:	DECISION
Attorney Docket No.: 5016-0106PUS1	:	
For: THIN FILM TRANSISTOR, WIRING BOARD AND METHOD FOR MANUFACTURING SUCH THIN FILM TRANSISTOR AND WIRING BOARD	:	

This is in response to applicant's "Petition Under 37 CFR 1.182 to Change Inventor's Name" filed 07 January 2008.

BACKGROUND

On 05 July 2006, applicant filed international application PCT/JP2006/313382, which claimed priority of an earlier Japan application filed 05 July 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 07 January 2008 (05 January 2008 was a Saturday).

On 07 January 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.182.

DISCUSSION

The surname of the sixth inventor is listed on the declaration as "Hirayama" and is listed on the published international application as "Yamaguchi".

MPEP 1893.01(e), Correction of Inventorship, states in relevant part,

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c).

Pursuant to MPEP 605.04(c), a petition to change an inventor's name must include the appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected or a copy of the court order. In the present case, the requisite petition fee and statement have been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 05 July 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 January 2008.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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Heiser, David E.
E. I. Du Pont De Nemours And Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19805

Mail Date: 04/21/2010

Applicant	: Velliyur Nott Mallikarjuna Rao	: DECISION ON REQUEST FOR
Patent Number	: 7659436	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/988,436	: 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 **86** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

In re Application of	:	
KOISHI	:	
Application No.: 11/988,549	:	
PCT No.: PCT/JP2006/313887	:	
Int. Filing Date: 12 July 2006	:	DECISION
Priority Date: 12 July 2005	:	
Attorney Docket No.: 135255	:	
For: IMAGE PROCESSING DEVICE, IMAGE	:	
PROCESSING PROGRAM, AND IMAGE	:	
PROCESSING METHOD	:	

The decision is in response to applicant's petition under 37 CFR 1.182 filed in the USPTO on 08 February 2008.

BACKGROUND

On 12 July 2006, applicant filed international application PCT/JP2006/313887 which designated the United States and claimed a priority date of 12 July 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 January 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 January 2008 (12 January 2008 being a Saturday).

On 10 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 08 February 2008, applicant submitted the instant petition under 37 CFR 1.182. The petition was accompanied by a declaration of the inventor and an affidavit of Erika Koishi.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. The petition must include (1) the appropriate petition fee and (2) an affidavit signed by the inventor setting forth both names and

the procedure whereby the change of name was effected, or a certified copy of the court order. MPEP § 605.04(c).

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

With regard to item (2), the affidavit of Erika Koishi is an affidavit setting forth both names (Erika Kanematsu and Erika Koishi) and the procedure (marriage) whereby the change of name was effected. The affidavit is accepted.

Declaration of Inventors

The declaration of inventors filed 08 February 2008 is in compliance with 37 CFR 1.497(a)-(b)

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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

In re Application of: SATOMAA, Tero, et al. U.S. Application No.: 11/988,564 PCT No.: PCT/FI2006/050336 International Filing Date: 11 July 2006 Priority Date: 11 July 2005 Attorney Docket No.: 0933-0326PUS1 For: NOVEL CARBOHYDRATE PROFILE COMPOSITIONS FROM HUMAN CELLS AND METHODS FOR ANALYSIS AND MODIFICATION THEREOF	DECISION ON PETITION TO CHANGE INVENTOR'S NAME (37 CFR 1.182)

This decision is issued in response to applicants' "Petition Under 37 C.F.R. § 1.182" filed 15 September 2009. Applicants have submitted the required $400 petition fee.

BACKGROUND

On 11 July 2006, applicants filed international application PCT/FI2006/050336. The application claimed a priority date of 11 July 2005, and it designated the United States. On 18 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 11 January 2008. The published international application identified the eleventh inventor as Heidi HEMMORANTA.

On 10 January 2008, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an application data sheet (ADS). The ADS identified the eleventh inventor as Heidi HEMMORANTA.

On 15 July 2008, applicants filed an executed declaration accompanied by, among other materials, a supplemental ADS. The declaration and the supplemental ADS both identified the eleventh inventor as Heidi ANDERSON.

On 15 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 were required. The Notification indicated that the

previously filed declaration was defective based on the difference between the eleventh inventor's name of record (Heidi HEMMORANTA) and the name provided for such inventor on the declaration (Heidi ANDERSON).

On 15 September 2009, applicants filed the "Petition Under 37 C.F.R. § 1.182" considered herein. The petition seeks to change the name of record for inventor Heidi HEMMORANTA to Heidi ANDERSON, the name by which this inventor is identified in the declaration and supplemental ADS filed 15 July 2008.

DISCUSSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

> Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c).

The present petition indicates that the name of the eleventh inventor has changed since the filing of the international application. In order to correct the name of record for this inventor, a grantable petition under 37 CFR 1.182 is required.

Section 605.04(c) of the MPEP, referred to above, sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name. According to the MPEP, such a petition "must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Applicants' present petition is accompanied by payment of the required $400 petition fee and a "Statement" in which the inventor at issue confirms that, as a result of marriage, her name was changed from Heidi HEMMORANTA to Heidi ANDERSON. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for this inventor from Heidi HEMMORANTA to Heidi ANDERSON.

By correcting the inventor's name to correspond to the name listed in the declaration filed 15 July 2008, applicants have resolved the defect regarding such inventor's name identified in the Notification Of Missing Requirements. However, the declaration filed herein also appears to have been submitted in an unacceptable form. Specifically, the declaration document filed 15 July 2008 appears to be a compilation of multiple documents. See MPEP section 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." The compilation is evident in that the five-page declaration document includes two different copies of page "2 of 2" and page "3 of 3" (each executed by different inventors). Applicant is required to submit copies of the complete declaration documents executed by each of the inventors before the declarations may be accepted under 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Heidi HEMMORANTA to Heidi ANDERSON is **GRANTED**.

Based on this correction, the defect in the declaration document filed on 15 July 2008 regarding such inventor's name identified in the Notification Of Missing Requirements mailed 15 July 2009 has been resolved. However, as discussed above, the declaration document filed 15 July 2008 appears to be an unacceptable compilation of multiple documents.

Applicants have **TWO (2) MONTHS** from the mail date of the present decision to submit complete copies of the declaration(s) executed by each of the inventors herein, with such declarations being submitted in compliance with 37 CFR 1.497.

Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

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

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

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of:	:	
NAKANO, Hisamatsu, et al.	:	DECISION
U.S. Application No.: 11/988,581	:	
PCT No.: PCT/JP2006/303987	:	
International Filing Date: 02 March 2006	:	
Priority Date: 12 July 2005	:	
Atty Docket No.: 08005/LH	:	
For: WIDEBAND ANTENNA UNIT	:	

This decision is issued in response to the "Request For Corrected Filing Receipt And Notice Of Acceptance" filed 24 December 2008 (and resubmitted on 25 March 2009), treated in part herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 02 March 2006, applicants filed international application PCT/JP2006/303987. The international application claimed a priority date of 12 July 2005, and it designated the United States. On 18 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 12 January 2008.

On 10 January 2008, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an English translation of the international application.

On 07 May 2008, applicants filed an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date..

On 26 November 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 07 August 2008. Also on 26 November 2008, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 07 August 2008.

On 24 December 2008, applicants filed the "Request For Corrected Filing Receipt" considered in part herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date (the request was resubmitted on 25 March 2009).

DISCUSSION

A review of the application file confirms that the executed declaration that completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was originally filed herein on 07 May 2008. The correct "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All U.S.C. 371 Requirements" for the present application is therefore 07 May 2008, as asserted by applicants in the present petition.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 26 November 2008, which incorrectly identified the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 07 August 2008, is appropriately vacated. In addition, the filing receipt mailed on 26 November 2008, which incorrectly identified the 35 U.S.C. 371(c) date as 07 August 2008, is also appropriately vacated. A corrected Notification Of Acceptance and filing receipt will be issued which properly identify the 35 U.S.C. 371(c) date as 07 May 2008.

In addition, as requested by applicants herein, the duplicative listing of inventor Takaaki KONDO will be removed from the filing receipt and the assignee information will be added.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**. A review of the application file confirms that the executed declaration completing the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed herein on 07 May 2008.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 26 November 2008, which incorrectly identified the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All U.S.C. 371 Requirements" as 07 August 2008, and the filing receipt that incorrectly identified the 35 U.S.C. 371(c) date as 07 August 2008, are hereby **VACATED.**

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a corrected Notification of Acceptance (Form PCT /DO/EO/903) that properly identifies the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 07 May 2008 and a corrected filing receipt that properly identifies the 35 U.S.C. 371(c) date as 07 May 2008 (and which, as requested, removes the duplicative listing of inventor Takaaki KONDO and adds the information regarding the assignee).

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

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JORDAN AND HAMBURG LLP
122 East 42nd Street,
New York, NY 10168

In re Application of	:	DECISION ON
ROLSTON et al	:	
Application No.: 11/988,621	:	
PCT No.: PCT/KR2005/004173	:	
Int. Filing Date: 07 December 2005	:	PETITION UNDER
Priority Date: 16 June 2005	:	
Attorney's Docket No.: F-9640	:	
For: AUTOMATIC FOLDING FORK DEVICE	:	
FOR FORKLIFT TRUCKS	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 11 January 2008.

BACKGROUND

On 07 December 2005, this international application was filed, claiming an earliest priority date of 16 June 2005.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 16 December 2007. This international application became abandoned with respect to the United States at midnight on 16 December 2007 for failure to pay the required basic national fee.

On 11 January 2008, applicant filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee. However, no executed declaration was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional

information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of KRUGER et al Application No.: 11/988,671 PCT No.: PCT/DE2006/001217 Int. Filing Date: 10 July 2006 Priority Date: 11 July 2005 Attorney's Docket No.: 61146/M521 For: UNIT SUPPORT FOR A MOTOR VEHICLE DOOR	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to the "LETTER TO CORRECT FILING RECEIPTS," filed on 11 May 2010, which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to March 7, 2008.

BACKGROUND

On 10 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. However, no executed oath or declaration was filed on such date.

On 07 March 2008, applicant filed an executed declaration.

On 28 December 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 10 January 2008.

On 11 May 2010, applicant submitted the present petition.

DISCUSSION

A review of the file indicates that a properly executed declaration was filed on 11 May 2010. Thus, the date of receipt of the executed declaration for the above application is 11 May 2010, which is the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) have been satisfied.

DECISION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 28 December 2009 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **07 March 2008.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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Alexandria, VA 22313-1450
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Edwards, Angell, Palmer & Dodge, LLP
P.O. Box 55874
Boston, MA 02205

In re Application of	:	
AKISADA, et al.	:	
Application No.: 11/988,687	:	DECISIONS ON PETITION
PCT No.: PCT/JP2006/314098	:	
Int. Filing Date: 14 July 2006	:	UNDER 37 CFR 1.42
Priority Date: 15 July 2005	:	
Attorney Docket No.: 80845 (302721)	:	
For: ELECTROSTATIC ATOMIZER	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The filed declaration is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 July 2006, applicants filed the international application, which claimed a priority date of 15 July 2005 . A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 January 2007. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 January 2008.

On 11 January 2008, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an English translation of the international application; an Information Disclosure Statement; an Application Data Sheet; a combined declaration and power of attorney and "Notification of Spelling of Inventor's Name."

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

An examination of the filed declaration and power of attorney finds that the document lists the post office, residence and citizenship for both the deceased inventor Mr. Toshihisa Hirai and the legal representative to his estate, Mrs. Kishiko Hirai. The declaration lists and has been executed by the remaining inventors. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b).

The first name of inventor Akisada was spelled "Shosuke" on the published international application. The filed declaration lists the first name of the inventor as "Shousuke."

The Manual of Patent Examining Procedure (MPEP) section 201.03 provides that:

(B) Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. See MPEP § 605.04(g). Reference to the notification will be made on the previously filed oath or declaration;

Applicant's presently filed "Notification of Spelling of Inventor's Name" satisfies this requirement. It is noted that the correct spelling of the inventor's name appears on both the filed declaration, as well as, the Application Data Sheet.

In light of the above, it is proper to grant applicant's request at this time.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 14 July 2006 and a date of **11 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

Applicant: Oliver Raynald Defert, et al.
Appl. No.: 11/988,699
International Filing Date: July 11, 2006
Title: AMIDE DERIVATIVES AS KINASE INHIBITORS
Pub. No.: US 2009/0118283 A1
Pub. Date: May 7, 2009

MAILED

MAR 25 2010

OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b) or (a), received on July 7, 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

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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1 7 MAR 2008

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

In re Application of	:	
VAN DULMEN et al.	:	
Application No.: 11/988,756	:	
PCT No.: PCT/EP2006/002094	:	
Int. Filing Date: 02 March 2006	:	DECISION
Earlier Priority Date: 08 March 2005	:	
Attorney Docket No.: 07992.0004	:	
For: Equipment For Imaging By SPECT And/Or PET	:	

The petition to revive under 37 CFR 1.137(b) filed on 14 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of this petition, was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and the petition fee has also been paid. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Inspection of the declaration filed on 14 January 2008 reveals that the name of the second inventor is spelled as "Stéphen," whereas "Stéphan"is the spelling appearing on the published international application. The record provides no explanation of this discrepancy. Therefore, it would not be appropriate to accept the declaration at this time.

This application is being forwarded to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

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

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CST

November 16, 2009

In re application of Ji-Eun Kim et al Serial No. 11/988,794 Filed: January 15, 2008 For: NOVEL ANTHRACENE DERIVATIVES, PROCESS FOR PREPARATION THEREOF, AND ORGANIC ELECTRONIC LIGHT EMITTING DEVICE 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 request to participate in the Patent Prosecution Highway (PPH) program filed September 15, 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 KIPO, note where the KIPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the KIPO application with similar claims and the KIPO priority application;

(2) Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO 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 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 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 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 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 KIPO 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 KIPO examiner in the KIPO 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:

(1) The KIPO application with similar claims, Korean Patent Application No. 10-2007-0025049, is not the same application from which the U.S. application claims priority (10-2006-0023830) and applicant has not identified the relationship between the KIPO application with similar claims and the application from which the U.S. application claims priority. It is noted that the Request for Participation in the PPH program lists the KIPO application as 10-2006-0023830, however the actual documents provided from the KIPO appear to list application 10-2007-0025049. Additionally, application 10-2007-0025049 was found on the KIPO website, whereas 10-2006-0023830 was not.

(2) Applicant has not submitted a statement that the English translation of the allowable/patentable claims from the KIPO application is accurate; and

(5) Applicant has not submitted a statement that the English translation of the copy of the Office action from the KIPO is accurate.

Applicant is given a time period of **ONE MONTH OR THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected 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
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/988,794	01/15/2008	Ji-Eun Kim	29137.315.00-US	1234

30827 7590 12/30/2009
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

EXAMINER
CLARK, GREGORY D

ART UNIT	PAPER NUMBER
1794	

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.

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CST

DEC 3 0 2009

In re application of Ji-Eun Kim et al Serial No. 11/988,794 Filed: January 15, 2008 For: NOVEL ANTHRACENE DERIVATIVES, PROCESS FOR PREPARATION THEREOF, AND ORGANIC ELECTRONIC LIGHT EMITTING DEVICE 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 on December 11, 2009.

The request and petition are **GRANTED**.

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

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

(2) Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO 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 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 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 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 (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 KIPO 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 KIPO examiner in the KIPO office action (unless already submitted in this application)
   b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

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

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

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

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/988,807	01/15/2008	Ryoichi Tokioka	AI-533NP	1227

7590 06/11/2010

RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

EXAMINER
BINDA, GREGORY JOHN

ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
06/11/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Mimi Harmes

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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

In re Application of:	:	
JOHANNESSON, Rene, Burmand	:	
U.S. Application No.: 11/988,834	:	DECISION ON PETITION
PCT No.: PCT/EP2006/062665	:	
International Filing Date: 29 May 2006	:	
Priority Date: 01 June 2005	:	
Atty Docket No.: 4436-0175PUS1	:	
For: SYSTEM AND METHOD FOR	:	
ADAPTING HEARING AIDS	:	

The petition for revival under 37 CFR 1.137(b) filed 15 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

The present application became abandoned with respect to the United States at midnight on 01 December 2006 based on applicants' failure to enter the U.S. national stage and pay the basic national fee prior to the expiration of thirty months from the priority date.

The present petition for revival was accompanied by payment of the required petition fee and the "required reply" in the form of a request for entry into the U.S. national stage and payment of the basic national fee. In addition, the present petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3). Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application with respect to the United States is appropriately granted.

It is noted that an executed declaration under PCT Rule 4.17(iv) was filed during the international phase.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 15 January 2008.

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Baik et al.	:	DECISION ON PETITION
Application No. 11/988,848	:	TO WITHDRAW
Filed: January 15, 2008	:	FROM RECORD
Attorney Docket: EX06-026C-US	:	

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, 2010.

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

A review of the file record indicates that Townsend and Townsend and Crew were revoked as power of attorney by the assignee of the patent application on June 8, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JONATHAN P. O'BRIEN, PH.D., HONIGMAN MILLER
SCHWARTZ AND COHN LLP
350 EAST MICHIGAN AVENUE, SUITE 300
KALAMAZOO, MI 49007-3800

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0 8 FEB 2008

NIXON PEABODY LLP
161 N CLARK ST.
48TH FLOOR
CHICAGO IL 60601-3213

In re Application of FIDEN et al. Serial No.: 11/988,853 PCT No.: PCT/US05/23822 Int. Filing Date: 30 June 2005 Priority Date: 30 June 2004 Attorney's Docket No.: 247079-0000288WOPT For: WAGERING GAME WITH ASSET TRADING	DECISION ON PETITION UNDER 37 CFR 1.137(a)

The petition to revive under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office on 10 January 2008 in the above-captioned application.

BACKGROUND

On 10 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the basic national fee and a petition to revive the unavoidably abandoned international application under 37 CFR 1.137(a) accompanied by a statement of attorney Daniel J. Burnham.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable; and (4) a terminal disclaimer pursuant to 37 CFR 1.137(c).[1]

Regarding Item (1), the proper response, the basic national fee, was provided. Item (1) is satisfied.

The petition fee was paid, satisfying Item (2).

Concerning item (3), counsel provided a statement regarding the facts underlying applicant's claim of unavoidable delay concluding that the delay was due to a docketing error. Counsel indicated that an Exhibit 1, identified as a "Docketing Reminder" email dated December 29, 2006 and a December 29, 2006 email from Daniel Nguyen, was attached. However, this Exhibit is not found among the papers submitted and is required. If the hard copy printout of the attorney and legal assistant's (Christine Pisarski) docket for 30 December 2006 is available, it

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A terminal disclaimer is not required in this application since it was filed after 08 June 1995.

should also be provided.

MPEP Section 711.03(c) II.C. indicates the following:

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
(A) the error was the cause of the delay at issue;
(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Counsel's statement attempts to demonstrate that the cause of the delay was a docketing error, that the business routine for performing the electronic clerical function could be reasonably relied upon and the employee responsible for this clerical function was sufficiently trained and experienced. However, the Exhibit would help support this conclusion and should be submitted. Counsel does not provided sufficient evidence at this time to conclude that the abandonment of the U.S. national stage application was unavoidable. The burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable rests on the applicant. MPEP §711.03(c) II F. Thus, the petition to revive under 37 CFR 1.137(a) for unavoidable delay is dismissed without prejudice.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **DISMISSED without prejudice**.

The application remains **ABANDONED**.

Any request for reconsideration of the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)."

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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18 APR 2008

NIXON PEABODY LLP
161 N CLARK ST.
48TH FLOOR
CHICAGO IL 60601-3213

In re Application of FIDEN et al. Serial No.: 11/988,853 PCT No.: PCT/US05/23822 Int. Filing Date: 30 June 2005 Priority Date: 30 June 2004 Attorney's Docket No.: 247079-0000288WOPT For: WAGERING GAME WITH ASSET TRADING	DECISION ON PETITION UNDER 37 CFR 1.137(a)

The renewed petition to revive under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office on 15 February 2008 in the above-captioned application.

BACKGROUND

On 10 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the basic national fee and a petition to revive the unavoidably abandoned international application under 37 CFR 1.137(a) accompanied by a statement of attorney Daniel J. Burnham.

On 08 February 2008, a decision dismissing the petition was mailed to applicant indicating that applicant had not provided 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 was unavoidable. Petitioner was also advised that Exhibit 1 was not found among the petition papers filed.

On 15 February 2008, applicant filed a renewed petition along with a copy of Exhibit 1.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); and (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 was unavoidable.

Items (1) and (2) were previously satisfied.

Concerning item (3), counsel previously provided a statement regarding the facts underlying applicant's claim of unavoidable delay concluding that the delay was due to a docketing error. However, Exhibit 1 was not found among the initial petition papers and is provided with the renewed petition. Exhibit 1 is identified as a "12/29/06 Docketing Reminder"

email, which appears to be initiated by Joseph Ramirez. The email raises further questions regarding the docketing system in place. Mr. Ramirez's role/position has not been identified nor was his statement provided. What docketing record did Mr. Ramirez review in order to create and send this email? Who was responsible for determining the national stage deadline date and entering that date into the law firm's docketing system? Statements of staff members of the law firm of Jenkens & Gilchrist, whose names appear on the email (Daniel Nguyen, Christine Pisarski, Monica Siess) and who were apparently involved with and responsible for docketing the deadline for national stage entry of this international application, were not provided. The email clearly does not include information that the international application should be filed as a national stage entry into the U.S. However, this Exhibit does not elucidate how the docketing system worked, who was responsible for entering the deadline into the docketing system and how the person(s) responsible for docketing failed to properly docket this application for national stage entry.

As previously stated in the 08 February 2008 decision, MPEP Section 711.03(c) II.C. indicates:

> A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
> (A) the error was the cause of the delay at issue;
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Petitioner has not explained the electronic docketing system employed by Jenkens & Gilchrist would ensure that the deadline for U.S. national stage entry of an international application would be recorded and docketed, reminding applicant to file a national stage application. The business routine in place for performing this clerical function to avoid errors in performance has not be thoroughly explained. Moreover, while Petitioner identifies Ms. Siess as the head of docketing at Jenkens & Gilchrist, the extent of her training and experience which is relied upon, and her role/function in entering such date, is not fully explained. It appears that others may have been responsible for the entry of the deadline for this international application into the electronic docketing system and their experience and training have not been explained and is necessary to determine whether the abandonment was unavoidable.

Consequently, Petitioner has not demonstrated that the cause of the delay was a docketing error, that the business routine for performing the electronic clerical function could be reasonably relied upon and the employee responsible for this clerical function was sufficiently trained and experienced.

Counsel does not provided sufficient evidence at this time to conclude that the abandonment of the U.S. national stage application was unavoidable. The burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable rests on the applicant. MPEP §711.03(c) II F. Thus, the petition to revive under 37 CFR 1.137(a) for unavoidable delay is dismissed without prejudice.

RECOMMENDATION

As an alternative, applicant may request revival of the application via petition under 37 CFR 1.137(b).

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the date on which the application became abandoned. Such a petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply; (2) the petition fee required by law, and (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional".

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

This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **DISMISSED without prejudice**.

The application remains **ABANDONED**.

Any request for reconsideration of the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)."

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

2 7 JUN 2008

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NIXON PEABODY LLP
161 N CLARK ST.
48TH FLOOR
CHICAGO IL 60601-3213

In re Application of FIDEN et al. Serial No.: 11/988,853 PCT No.: PCT/US05/23822 Int. Filing Date: 30 June 2005 Priority Date: 30 June 2004 Attorney's Docket No.: 247079-0000288WOPT For: WAGERING GAME WITH ASSET TRADING	DECISION ON PETITION UNDER 37 CFR 1.137(a)

The renewed petition to revive under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office on 28 May 2008 in the above-captioned application.

BACKGROUND

On 10 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the basic national fee and a petition to revive the unavoidably abandoned international application under 37 CFR 1.137(a) accompanied by a statement of attorney Daniel J. Burnham.

On 08 February 2008, a decision dismissing the petition was mailed to applicant indicating that applicant had not provided 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 was unavoidable. Petitioner was also advised that Exhibit 1 was not found among the petition papers filed.

On 15 February 2008, applicant filed a renewed petition along with a copy of Exhibit 1. On 18 April 2008, a decision was mailed dismissing the petition indicating that Petitioner had not demonstrated that the cause of the delay was a docketing error, that the business routine for performing the electronic clerical function could be reasonably relied upon and that the employee responsible for this clerical function was sufficiently trained and experienced.

On 28 May 2008, applicant filed a renewed petition along with declarations from the docketing coordinator and docketing clerk at the time of the abandonment of the application.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); and (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 was unavoidable.

Items (1) and (2) were previously satisfied.

Concerning item (3), MPEP Section 711.03(c) II.C. indicates:

> A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
> (A) the error was the cause of the delay at issue;
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Counsel provided a statement regarding the facts underlying applicant's claim of unavoidable delay concluding that the delay was due to a docketing error. Petitioner also presented the declarations of Joseph Ramirez, docketing clerk and Monica E. Siess, docketing coordinator for the law firm representing the applicant. Petitioner explained how the docketing error was the cause of the delay, that there was a reasonably reliable business routine in place to perform the clerical function and that Ms. Siess was sufficiently trained and experienced with regard to the docketing function and routine for its performance such that reliance upon Ms. Siess represented the exercise of due care.

Petitioner has now demonstrated that the cause of the delay was a docketing error, that the business routine for performing the electronic clerical function could be reasonably relied upon and the employee responsible for this clerical function was sufficiently trained and experienced. Thus, the petition to revive under 37 CFR 1.137(a) for unavoidable delay is granted.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration, after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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

In re Application of	:	
YASUI, et al.	:	
U.S. Application No.: 11/988,857	:	DECISION ON REQUEST
PCT No.: PCT/JP2006/313571	:	
Int. Filing Date: 07 July 2006	:	UNDER 37 CFR 1.42
Priority Date: 13 July 2005	:	
Attorney Docket No.: F-9591	:	
For: DOOR LOCK DEVICE WITH SAFETY SWITCH	:	

This decision is in response to applicant's submission of a combined declaration and power of attorney filed in the United States Patent and Trademark Office (USPTO) on 14 January 2008. The response is being treated as a request for status under 37 CFR §1.42. No petition fee is due.

BACKGROUND

On 07 July 2006, applicant filed international application PCT/JP2006/313571 which claimed priority to an earlier application filed 06 February 2006. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 July 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 January 2008.

On 14 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; an English translation of the international application; an Application Data Sheet; an executed declaration of the inventors and an Information Disclosure Statement.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

In addition to being signed by the inventors listed on the published international application, the declaration filed 14 January 2008 is executed by Kiyo Hidaka as the legal

representative to estate of deceased inventor, Takafumi Hidaka. The declaration provides the residence, post office address and country of citizenship for both the deceased inventor and his legal representative and thus satisfies the provisions of 37 CFR 1.497(a)-(b). Therefore, it is proper to grant applicant's request for status under 37 CFR 1.42 at this time.

CONCLUSION

Applicant's request for status of papers under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 07 July 2006 and a date of **14 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Baik et al.	:	DECISION ON PETITION
Application No. 11/988,859	:	TO WITHDRAW
Filed: January 15, 2008	:	FROM RECORD
Attorney Docket: EX06-013CUS	:	

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, 2010.

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

A review of the file record indicates that a new power of attorney was filed by the assignee of the patent application on June 8, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JONATHAN P. O'BRIEN, PH.D., HONIGMAN MILLER
SCHWARTZ AND COHN LLP
350 EAST MICHIGAN AVENUE, SUITE 300
KALAMAZOO, MI 49007-3800

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of MOHSEN et al. Application No.: 11/988,913 PCT No.: PCT/US06/27977 Int. Filing: 17 July 2006 Priority Date: 15 July 2005 Attorney Docket No.: 627052001400 For: MULTIPLE ACTIVE PHARMACEUTICAL INGREDIENTS COMBINED IN DISCRETE INHALATION PARTICLES AND FORMULATIONS THEREOF	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's Petition Under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office on 04 September 2009. Applicant's request for a five month extension of time is granted.

BACKGROUND

On 05 February 2009, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration, in accordance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period was required.

On 04 September 2009, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the joint inventor on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor NAHED M. MOHSEN, alleging that the inventor refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her

own behalf and on behalf of the non-signing joint inventor(s).

Applicant has satisfied Item (1) with the requisite $200 petition fee, charged to applicant's deposit account per his authorization.

With respect to Item (2), the first hand statement of Owen Bates, in support of the petition, was submitted. Copies of the correspondence sent to the nonsigning inventor were attached to the statement. Mr. Bates, senior patent counsel for MAP Pharmaceuticals, Inc., states that on 27 August 2009, he attempted to forward a complete copy of the application papers including a declaration to the nonsigning inventor for her signature. Unfortunately, delivery attempts by UPS were unsuccessful, noting that Dr. Mohsen was unavailable. A copy of the track shipment statement was attached to the petition. The track shipment statement demonstrates that "the receiver was unavailable to sign on the 3rd delivery attempt". It is noted that delivery was attempted between 31 August and 02 September 2009, a period of 3 days when the nonsigning inventor could have been at work or out of town. Prior to the 27 August mailing, on 03 June 2009, Mr. Bates called Dr. Mohsen and spoke with her about executing the assignment documents in a Canadian application. At that time, Dr. Mohsen indicated that she would not sign the assignment documents, but she would execute a declaration. Mr. Bates indicates that he sent a followup letter to his conversation with Dr. Mohsen regarding the Canadian application. Mr. Bates has not received any communication from Dr. Mohsen and concludes that she is unwilling to sign the application papers.

It is clear that the nonsigning inventor did not receive a copy of the application papers relating to the above referenced application as there was no confirmation regarding the delivery (presentation) of the application papers to the nonsigning inventor. Nor did Petitioner call Dr. Mohsen to arrange a delivery or email of the application papers. Petitioner did not provide any evidence of followup to the August 2009 attempt with a telephone call or email to the nonsigning inventor or the like to confirm her address and complete delivery of the application papers so as to conclude that the inventor refuses to sign the application. Thus, it cannot be concluded at this time that the nonsigning inventor was presented with a complete copy of the application papers. *See* Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal. [1] Item (2) is not yet satisfied.

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[1] A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery

With regard to Item (3), the last known address of inventor Mohsen was provided. Item (3) is satisfied.

With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by the joint inventors and in compliance with 37 CFR 1.497(a) and (b). It is noted that an Application Data Sheet which provides the named inventors' respective residency and mailing address was also submitted.

As discussed above, Item (2) is not satisfied. Thus, Petitioner has not satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter 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.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.
(Emphasis added.)

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2 5 JAN 2010

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of MOHSEN et al.
Application No.: 11/988,913
PCT No.: PCT/US06/27977
Int. Filing: 17 July 2006
Priority Date: 15 July 2005
Attorney Docket No.: 627052001400
For: MULTIPLE ACTIVE PHARMACEUTICAL INGREDIENTS COMBINED IN DISCRETE INHALATION PARTICLES AND FORMULATIONS THEREOF

: DECISION ON

: PETITION

:UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed Petition Under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office on 23 November 2009.

BACKGROUND

On 05 February 2009, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration, in accordance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period was required.

On 04 September 2009, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the joint inventor on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor NAHED M. MOHSEN, alleging that the inventor refuses to sign the application.

On 05 November 2009, a decision dismissing the petition was mailed indicating that sufficient proof of the nonsigning inventor's refusal was not provided.

DISCUSSION

Petitioner has now presented the declarations signed by previously nonsigning inventor NAHED M. MOHSEN and the joint inventors. A review of the declarations reveals that the

declarations identify and are executed by all the inventors named in the international application including their respective citizenship. The application data sheet states the residency and mailing address of each inventor.

The petition under 37 CFR 1.47(a) is considered moot as declaration executed by the previously unavailable inventor has now been submitted. The declarations are acceptable.

CONCLUSION

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

The declarations, executed by NAHED M. MOHSEN and the joint inventors, and submitted on 23 November 2009, are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 23 November 2009.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-272-0459

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1 2 JAN 2010

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

In re Application of SELVARAJAN et al	:	
U.S. Application No.: 11/988,928	:	
PCT Application No.: PCT/AU2006/001494	:	DECISION
Int. Filing Date: 12 October 2006	:	
Priority Date Claimed: 14 October 2005	:	
Attorney Docket No.: PTB-4398-826	:	
For: NASAL ASSEMBLY	:	

This is in response to applicant's correspondence filed 09 September 2009, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 October 2006, applicant filed international application PCT/AU2006/001494, which claimed priority of an earlier United States application filed 14 October 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 19 April 2007. The thirty-month period for paying the basic national fee in the United States expired on 14 April 2008.

On 17 January 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 July 2009, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 September 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of international application PCT/AU2006/001494 reveals that a proper declaration under PCT Rule 4.17(iv) was filed with the international application papers.

Accordingly, applicant need not submit an oath or declaration in the U.S. national stage application. See 37 CFR 1.497(a). Therefore, the Notification of Missing Requirements was sent in error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 09 July 2009 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 October 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 January 2008.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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Hodes Pessin & Katz PA
Department of intellectual Property
901 Dulaney Valley Road Suite 400
Towson MD 21204

In re Application of	:	
COMPAGNUCCI	:	
Application No.: 11/988,957	:	
PCT No.: PCT/IT06/00439	:	DECISION ON PETITION
Int. Filing Date: 12 June 2006	:	
Priority Date: 28 June 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 024783.430	:	
For: IMPROVED FRAME TO SUPPORT PULL-OUT	:	
AND ROTATING RACKS FOR CABINETS	:	

The petition to revive under 37 CFR 1.137(b) filed 17 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 28 June 2005 under 35 U.S.C. 363 and will be given a date of **17 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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P.O. Box 1450
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LAW OFFICES OF MARK A. GARZIA, P.C.
2058 CHICHESTER AVE
BOOTHWYN PA 19061

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OFFICE OF PETITIONS

In re Application of	:	
Paul Moeltgen	:	
Application No. 11/988,961	:	NOTICE
Filed: January 15, 2008	:	
Attorney Docket No. **WMP-P4-US**	:	

This is a notice regarding your request filed October 7, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

There is no indication that the person signing the petition/request was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34, the signature of Mark A .Garzia 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 in whose behalf he acts. If, Mark A. Garzia desires to be acknowledged as the attorney of record the appropriate power of attorney document must be submitted.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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11 FEB 2008

Janet Sleath
SPECKMAN LAW GROUP PLLC
1201 Third Avenue, Suite 330
Seattle, WA 98101

In re Application of :
SCHNEEGANS, Thomas Hugo :
U.S. Application No.: 11/988,985 :
PCT No.: PCT/DE2006/000023 :
Int. Filing Date: 10 January 2006 :
Priority Date: 16 January 2005 :
Attorney Docket No.: 88000.1026 :
For: MULTIFUNCTIONAL TRANSPORT :
FRAME FOR THE CONVERTIBLE :
ASSEMBLY OF VARIOUS CHILD :
TRANSPORT DEVICES OR VEHICLES :

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) filed on 16 January 2008 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

21 MAY 2008

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Alexandria, VA 22313-1450
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Christopher Aniedobe
Dobe Law Group
7207 Hanover Pkwy ste. cd
Greenbelt MD 20770

In re Application of:
BERGE, Rolf
U.S. Application No.: 11/989,004
PCT No.: PCT/NO2006/000262
International Filing Date: 10 July 2006
Priority Date: 18 July 2005
Atty Docket No.: 966917-00020
For: FATTY ACID ANALOGUES FOR EQUILIBRATING BONE MINERAL DENSITY

DECISION ON PETITION

This decision is issued in response to applicant's "Petition For Filing Date For Application Filed Under 35 U.S.C. 371" filed 29 April 2008. No petition fee is required.

BACKGROUND

On 10 July 2006, applicant filed international application PCT/NO2006/000262. The international application claimed a priority date of 18 July 2005, and it designated the United States. On 25 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 18 January 2008.

On 18 January 2008, applicant filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by: (1) a $755 fee payment, including payment of the small entity basic national fee; (2) a copy of the published international application; (3) a copy of the international search report; (4) a copy of the international preliminary report on patentability; and (5) a preliminary amendment. The materials were assigned U.S. application number 11/989,004.

On 29 April 2008, applicant filed the petition considered herein. The petition indicates that applicant was informed that the USPTO had no record of the 18 January 2008 filing. Applicant has therefore submitted with the present petition a copy of the materials filed on 18 January 2008, and herein requests that such materials be treated as a U.S. national stage application filed under 35 U.S.C. 371 on 18 January 2008. The petition includes a copy of a return postcard that itemizes the filed materials and bears a USPTO receipt stamp dated 18 January 2008.

DISCUSSION

The present application file includes the original materials filed by applicant on 18 January 2008 to initiate this national stage application, and the filing date for these materials indicated in the application file is 18 January 2008. Accordingly, applicant's present petition requesting that such materials be entered and accorded a filing date of 18 January 2008 is moot.

CONCLUSION

The "Petition For Filing Date For Application Filed Under 35 U.S.C. 371" filed 29 April 2008 is **DISMISSED AS MOOT**.

The original national stage application materials filed herein (copies of which accompanied the present petition), including the payment of the basic national fee, are present in the application file and have been assigned a filing date of 18 January 2008.

This application is being referred to the national Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905). It is noted that applicant has not submitted an oath or declaration in compliance with 37 CFR 1.497.

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

0 6 FEB 2008

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In re Application of PAPARONI	:	
U.S. Application No.: 11/989,048	:	
PCT Application No.: PCT/BR2005/000080	:	
Int. Filing Date: 12 May 2005	:	DECISION
Priority Date Claimed: 25 August 2004	:	
Attorney Docket No.: 4376/105252	:	
For: ADJUSTABLE COMMAND CABLE	:	
TERMINAL	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 18 January 2008.

BACKGROUND

On 12 May 2005, applicant filed international application PCT/BR2005/000080, which claimed priority of an earlier Brazil application filed 25 August 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 02 March 2006. The thirty-month period for paying the basic national fee in the United States expired on 25 February 2007.

International application PCT/BR2005/000080 became abandoned as to the United States for failure to timely pay the basic national fee.

On 18 January 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin
Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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

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OFFICE OF PETITIONS

In re Application of

Mauricio Paranhos TORRES, et *al.*
Application No. 11/989,069
Filed: January 18, 2008
Attorney Docket No. **3194-8743US**

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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OFFICE OF PETITIONS

In re Application of
Mauricio P. TORRES
Application No. 11/989,069
Filed: January 18, 2008
Attorney Docket No. **3194-8743US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 16, 2010.

The request is **APPROVED**.

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

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

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

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

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

cc: **MAURICIO PARANHOS TORRES**
RUA SAMPAIO VIDAL, 599 JD. CHAPADAO
CAMPINAS, SAP PAULA 13070-090
BRAZIL

1 9 FEB 2008

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Barry L Kelmachter
Bachman & Lapointe PC
900 Chapel Street Suite 1201
New Haven CT 06510-2889

In re Application of	:	
RYTZ et al.	:	
Application No.: 11/989,079	:	DECISION
PCT No.: PCT/CH2006/000361	:	
Int. Filing Date: 07 July 2006	:	
Priority Date: 14 July 2005	:	
Attorney Docket No.: 08-141	:	
For: ELECTROOPTICAL COMMUNICATIONS	:	
AND POWER CABLE	:	

This decision is in response to applicants' submission filed 18 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 July 2006, applicant filed international application PCT/CH2006/000361 which designated the U.S. and claimed a priority date of 14 July 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 18 January 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 January 2008.

On 18 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an unexecuted declaration of inventors, a translation of the international application as filed into English, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 18 January 2008.

As to item (2), applicant submitted the petition fee on 18 January 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b), the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, and the processing fee under 37 CFR 1.492(i) for providing the English translation later than thirty months from the priority date.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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10 DEC 2009

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330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

In re Application of HUDSON et al.	:	
Application No.: 11/989,123	:	DECISION ON
PCT No.: PCT/CA06/01227	:	
Int. Filing: 26 July 2006	:	PETITION TO REVIVE
Priority Date: 26 July 2005	:	
Attorney Docket No.: 10704-33 MIS	:	UNDER 37 CFR 1.137(b)
For: SCRAMBLED EGG SNACK FOOD	:	

The petition to revive under 37 CFR 1.137(b) filed 19 October 2009 in the above captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the executed declaration, in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration after than thirty months after the priority date. The petition fee has been paid.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 19 October 2009.

Cynthia M. Kratz

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

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

In re Application of	:	
D'SOUZA, et al.	:	
Serial No.: 11/989,137	:	DECISION ON PETITION
PCT No.: PCT/AU2006/000035	:	
Int. Filing Date: 12 January 2006	:	UNDER 37 CFR 1.181
Priority Date: 14 October 2005	:	
Attorney Docket No.: 4398-825	:	
For: CUSHION TO FRAME ASSEMBLY	:	
MECHANISM	:	

This decision is in response to applicant's correspondence filed 09 September 2009 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition under 37 CFR 1.181 to assign a 35 U.S.C. 371 date of 22 January 2008. No petition fee is required.

BACKGROUND

On 12 January 2006, applicant filed international application PCT/AU2006/000035, which claimed a priority date of 14 October 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 April 2007. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 April 2008.

On 22 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an Information Disclosure Statement; an Application Data Sheet and a preliminary amendment.

On 09 July 2009, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to file an executed oath or declaration of the inventors. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 09 September 2009, applicant filed a letter with the USPTO stating that the declaration submitted in the international application satisfied the requirements of 35 U.S.C. 371 (c)(4).

DISCUSSION

The declaration in question was filed in the international application subsequent to the international filing date. The declaration does not identify the international application number. 37 CFR 1.63 requires that an oath or declaration identify the specification to which it is directed. The Manual of Patent Examining Procedure (MPEP) section 602 further explains:

> The following combination of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:
>
> (A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;
>
> (B) name of inventor(s), and attorney docket number which was on the specification as filed; or
>
> (C) name of inventor(s), and title of the invention which was on the specification as filed.

Applicant argues that the declaration is in compliance with 37 CFR 1.497(a) because the "Declaration identifies the names of all of the inventors and the title of the invention (see page 1 of the Request/Declaration)." However, applicant's interpretation is incorrect. While the Form PCT/RO/101 identifies the title of the invention, the declaration does not. As such, the declaration does not comply with 37 CFR 1.497(a)-(b). Applicant is directed to PCT Rule 26ter for further information for filing a declaration in an international application subsequent to the international filing date.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED**.

The time period for responding to the Form PCT/DO/EO/905 mailed 09 July 2009 continues to run.

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

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

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

In re Application of	:	
BOECKING	:	
Application No.: 11/989,189	:	DECISION
PCT No.: PCT/EP2007/006811	:	
Int. Filing Date: 01 August 2007	:	
Priority Date: 05 August 2006	:	
Attorney's Docket No.: 209,253	:	
For: DEVICE FOR SETTING A BRUSH	:	
ONTO A ROLL	:	

This decision is in response to applicant's petition under 37 CFR 1.10(c) filed on 05 February 2008 in the United States Patent and Trademark Office (USPTO)

BACKGROUND

On 01 August 2007, applicant filed international application PCT/EP2007/006811 which designated the U.S. and claimed a priority date of 05 August 2006. A copy of the international application was communicated to the USPTO from the International Bureau on 14 February 2008. The thirty-month period for paying the basic national fee in the United States expires at midnight on 05 February 2009.

On 18 January 2008, the United States Designated/Elected Office (DO/EO/US) received a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 05 February 2008, applicant submitted the instant petition under 37 CFR 1.10(c). The petition was accompanied by, *inter alia*, a copy of a postcard receipt date-stamped 22 January 2008 by the USPTO, and a copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label #EB908951854US. The handwritten date in the "Date Accepted" box is illegible.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the application papers and basic national fee were deposited with the United States Postal Service as an "Express Mail Post Office to Addressee" mailing on 18 January 2008. Specifically, the "Express Mail" label number ("EB908951854US") appears on the application papers, which also

list the above-identified attorney docket number, title and inventor. As discussed above, the "Date Accepted" entry in the copy of the Customer Copy of the "Express Mail" label is illegible. Nevertheless, a printout from the "U.S. Postal Service Track & Confirm" Database (copy enclosed) confirms that the correspondence having this Express Mail mailing label number was accepted by the USPS on 18 January 2008.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(c) requesting that the application papers and the basic national fee be accorded a receipt date of 18 January 2008 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: copy of a printout from the "U.S. Postal Service Track & Confirm" Database for Express Mail mailing label number EB908951854US

Track & Confirm

Search Results

Label/Receipt Number: **EB90 8951 854U S**
Detailed Results:

- **Delivered, January 22, 2008, 8:53 am, ALEXANDRIA, VA 22313**
- **Arrival at Pick-Up-Point, January 19, 2008, 10:27 am, ALEXANDRIA, VA 22313**
- **Arrival at Unit, January 19, 2008, 10:21 am, MERRIFIELD, VA 22081**
- **Processed, January 18, 2008, 10:09 pm, NEW YORK, NY 10199**
- **Acceptance, January 18, 2008, 8:16 pm, NEW YORK, NY 10017**

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13 FEB 2008

Ladas & Parry LLP
26 West 61st Street
New York, New York 10023

In re Application of MILDRUM et al. Application No.: 11/989,222 PCT No.: PCT/ES06/00374 Int. Filing Date: 26 June 2006 Priority Date: 27 June 2005 Attorney Docket No.: U 017165-7 For: FUEL ELEMENT FOR PRESSURISED WATER NUCLEAR REACTORS AND METHOD OF LOADING FUEL ELEMENTS INTO A NUCLEAR REACTOR CORE	:	DECISION

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 18 January 2008.

The petition has been signed by Silvia Moreno, who is neither the applicant herein nor a person registered to practice before the U.S. Patent and Trademark Office. The signature of the patent practitioner has not been included.

37 CFR 1.33(b) states that all papers filed in a patent application must be signed by:

> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Because the present petition is not executed by the applicants (Claude Michel Mildrum and Jose Francisco Serrano Rodriguez), a patent practitioner, or an assignee that has properly established ownership of the application, the petition is considered an unsigned communication pursuant to 37 CFR 1.33(b). As such, the petition cannot be considered on its merits.

The petition has been placed in the application file, but no further action will be taken thereon.

The present application remains **ABANDONED**.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

2 8 FEB 2008

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26 West 61st Street
New York, New York 10023

In re Application of MILDRUM et al. Application No.: 11/989,222 PCT No.: PCT/ES06/00374 Int. Filing Date: 26 June 2006 Priority Date: 27 June 2005 Attorney Docket No.: U 017165-7 For: FUEL ELEMENT FOR PRESSURISED WATER NUCLEAR REACTORS AND METHOD OF LOADING FUEL ELEMENTS INTO A NUCLEAR REACTOR CORE	:	DECISION

The petition to revive under 37 CFR 1.137(b) filed 26 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

15 JUN 2009

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00109
THE DOW CHEMICAL COMPANY
Intellectual Property Section
P.O. Box 1967
Midland, MI 48641-1967

In re Application of CRANLEY *et al* U.S. Application No.: 11/989,225 PCT No.: PCT/US2006/028513 Int. Filing Date: 21 July 2006 Priority Date: 22 July 2005 Attorney Docket No.: 64157A WO For: ORAL DRUG COMPLIANCE MONITORING USING SOUND DETECTION	**DECISION ON PETITION UNDER 37 CFR 1.497(d)**

This is a decision on the petition under 37 CFR 1.497(d) filed 24 April 2009 requesting to add three inventors in the above-captioned national stage application.

BACKGROUND

On 20 January 2009, applicants submitted a declaration executed by ten inventors and a $130.00 surcharge fee for the above-captioned national stage application of PCT/US2006/028513.

On 02 March 2009, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b). The declaration filed 20 January 2009 did not comply with 37 CFR 1.497(a) and (b) in that it listed three inventors not on the international application. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 24 April 2009, applicants filed the subject petition under 37 CFR 1.497(d) which was accompanied by, *inter alia*, three statements of the inventors being added and a copy of the declaration filed 20 January 2009.

DISCUSSION

Applicants request that Christopher M. Jones, Flor A. Castillo and Bettina M. Rosner be added as inventors in the above-captioned national stage application of PCT/US2006/028513.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(i); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants have provided signed statements from the three inventors being added stating that the error arose without any deceptive intention. The $130.00 processing fee has been charged to Deposit Account No. 04-1512 as authorized.

Items (1) and (2) of 37 CFR 1.497(d) are satisfied.

However, applicants have not provided the written consent of the assignee or indicated whether an assignment has been executed for the subject application by any of the inventors. This item must be addressed for a grantable petition under 37 CFR 1.497(d).

CONCLUSION

Applicants' request to add three inventors under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

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

It is noted that the declaration originally filed 20 January 2009 is not in compliance with 37 CFR 1.497(a) and (b). The declaration contains noninitialed, changes recorded on the mailing address of Kristine L. Danowski.

Any changes made in ink should be initialed and dated prior to execution of the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. *See* 605.04(a) MPEP.

A new declaration for Ms. Danowski in compliance with 37 CFR 1.497(a) and (b) is required with any renewed petition.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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THE DOW CHEMICAL COMPANY
Intellectual Property Section
P.O. Box 1967
Midland, MI 48641-1967

In re Application of CRANLEY *et al* U.S. Application No.: 11/989,225 PCT No.: PCT/US2006/028513 Int. Filing Date: 21 July 2006 Priority Date: 22 July 2005 Attorney Docket No.: 64157A WO For: ORAL DRUG COMPLIANCE MONITORING USING SOUND DETECTION	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.497(d)**

This is a decision on the renewed petition under 37 CFR 1.497(d) filed 13 August 2009.

BACKGROUND

On 15 June 2009, a decision dismissing applicants' petition pursuant to 37 CFR 1.497(d) was mailed. The decision also noted that the declaration signed by one of the inventors was not acceptable. Applicants were given two months to respond with extensions of time available.

On 13 August 2009, applicants filed a renewed petition which was accompanied by, *inter alia*, a new declaration by co-inventor, Ms. Kristine L. Danowski and a statement under 37 CFR 3.73(b).

DISCUSSION

As previously noted, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants failed to satisfy item (3) of 37 CFR 1.497(d) in the original petition.

In the renewed petition, applicants claim that a written consent of the assignee was provided and explains that "such consent is granted in the attached Statement Under 37 CFR 3.73(b) signed by John B. Treangen." This is not the case.

The consent of the assignee specifically authorizing the change in the inventorship of the above-captioned application is also required.

For this reason, item (3) of 37 CFR 1.497(d) is still not satisfied.

CONCLUSION

Applicants' renewed request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

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

The declaration of Ms. Danowski is acceptable. The declaration provided complies with 37 CFR 1.497(a) and (b).

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.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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00109
DOW CHEMICAL COMPANY
Intellectual Property Section
P.O. Box 1967
Midland, TX 48641-1967

In re Application of
CRANLEY *et al*
U.S. Application No.: 11/989,225
PCT No.: PCT/US2006/028513
Int. Filing Date: 21 July 2006
Priority Date: 22 July 2005
Attorney Docket No.: 64157A WO
For: ORAL DRUG COMPLIANCE USING SOUND DETECTION

DECISION ON RENEWED PETITION UNDER 37 CFR 1.497(d)

This is a decision on the renewed request under 37 CFR 1.497(d) filed 16 December 2009.

BACKGROUND

On 06 November 2009, a decision dismissing applicants' petition pursuant to 37 CFR 1.497(d) was mailed. Applicants were given two months to respond.

On 16 December 2009, applicants filed the renewed petition along with a "Statement Under 37 CFR 3.73(b)."

DISCUSSION

Items (1) and (2) of 37 CFR 1.497(d) were satisfied in the initial petition filed 24 April 2009. A Statement under 37 CFR 3.73(b) was provided on 13 August 2009. However, the consent of the assignee authorizing the change in inventorship was also required to satisfy item (3) of 37 CFR 1.497(d).

In the subject response, applicants provided a consent of Dow Chemical Company to the change in inventorship in the subject application. The consent was signed by Mr. John B. Treangen who is authorized to sign for the assignee. *See* Statement Under 37 CFR 3.73(b) filed 13 August 2009.

All items of 37 CFR 1.497(d) are now complete.

CONCLUSION

Applicants' request to add Christopher M. Jones, Flor A. Castillo and Bettina M. Rosner as inventors in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 24 April 2009 is in compliance with 37 CFR 1.497(a) & (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 July 2006, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 April 2009.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Alexandria, VA 22313-1450
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14 FEB 2008

00466
YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of ENGDAHL, Bjorn U.S. Application No.: 11/989,235 PCT No.: PCT/SE2006/000590 Int. Filing Date: 22 May 2006 Priority Date: 23 May 2005 Attorney Docket No.: 1504-1066 For: HOSE COUPLING PROVIDED WITH NON RETURN VALVE AND COMBINED LOCKING AND OBSTRUCTING BODY	**DECISION ON PETITION UNDER 37 CFR 1.137(b)**

Applicant's petition to revive under 37 CFR 1.137(b) filed on 23 January 2008 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was not submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Thomas J Kowalski
c/o Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

In re Application of DOUCHET Application No.: 11/989,353 PCT No.: PCT/IB04/02810 Int. Filing Date: 20 August 2004 Priority Date: 21 August 2003 Attorney Docket No.: 674510-2008.1 For: SHORTENING SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(a) or 1.137(b)

This is a decision on applicant's petition under 37 CFR §§1.137(a) or 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 23 January 2008.

BACKGROUND

On 20 August 2004, applicant filed international application No. PCT/IB04/02810 which claimed a priority date of 21 August 2003, and which designated the United States. The deadline for entry into the national stage in the U.S. expired 30 months from the priority date, 21 February 2006.

On 23 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee. Applicant also filed the present petition requesting that the application be revived under 37 CFR 1.137(a) or (b).

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable; and (4) a terminal disclaimer pursuant to 37 CFR 1.137(c).

Regarding Item (1), the proper response was payment of the basic national fee. The fee of $310 is sufficient for entry into the national stage. The petition fee of $510 was paid, satisfying Item (2). As for Item (4), the terminal disclaimer is not required in this application since it was filed after 08 June 1995.

Concerning item (3), counsel provides the statement to Stuart Warner, Patent Manager for the assignee. In effect, Mr. Warner states that he relied upon his predecessor's work product. A showing of unavoidable delay will require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and

experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. Mr. Warner's statement does not support a finding that abandonment of the international application was unavoidable The burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable rests on the applicant. MPEP §711.03(c). Thus, the petition to revive under 37 CFR 1.137(a) for unavoidable delay is dismissed.

In the alternative, applicant requests revival of the application via petition under 37 CFR 1.137(b). Petitions under 37 CFR 1.137(b) are less burdensome (statements rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard.

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply; (2) the petition fee required by law, and (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional", and (4) by a terminal disclaimer and fee in all applications filed before 08 June 1995 pursuant to 37 CFR 1.137(c).

Petitioner provided the statement regarding the unintentional nature of the abandonment and the proper reply. Thus, Items (1) and (3) above are satisfied. Item (4) is not applicable.

However, Item (2) is not satisfied. Petitioner has not provided the petition fee of $1540. Applicant's deposit account contained insufficient funds at the time that the charge to the account was attempted. The petition for revival under 37 CFR 1.137(b) is **DISMISSED WITHOUT PREJUDICE.**

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **DISMISSED without prejudice**. The petition under 37 CFR 1.137(b) is **DISMISSED without prejudice.**

The application remains **ABANDONED**.

Any request for reconsideration on the merits of this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b). No additional petition fee is required.

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

1 7 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas J Kowalski
c/o Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

In re Application of	DECISION ON
DOUCHET	
Application No.: 11/989,353	RENEWED PETITION
PCT No.: PCT/IB04/02810	
Int. Filing Date: 20 August 2004	UNDER 37 CFR 1.137(b)
Priority Date: 21 August 2003	
Attorney Docket No.: 674510-2008.1	
For: SHORTENING SYSTEM	

The renewed petition to revive under 37 CFR 1.137(b) filed 03 April 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee was now been provided. The required petition fee of $1540 is now paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of CHRISTENHUSZ et al	:	
U.S. Application No.: 11/989,358	:	
PCT Application No.: PCT/NL2006/000247	:	DECISION
Int. Filing Date: 12 May 2006	:	
Priority Date Claimed: 12 July 2005	:	
Attorney Docket No.: 294-305 PCT/US	:	
For: HIP ABDUCTION ORTHOSIS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 January 2008.

BACKGROUND

On 12 May 2006, applicant filed international application PCT/NL2006/000247, which claimed priority of an earlier Netherlands application filed 12 July 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 18 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 12 January 2008.

International application PCT/NL2006/000247 became abandoned as to the United States for failure to timely pay the basic national fee.

On 24 January 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a proper oath or declaration in compliance with 37 CFR 1.497 must be filed. Form PCT/DO/EO/905 should indicate that the declaration filed 24 January 2008 is an improper composite document.[1]

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

[1] It is not acceptable to combine pages (i.e. signature pages) from different copies of a declaration into a single document. Applicant must submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, wherein all of the inventors are presented with and execute at least one of the multiple complete declarations.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/989,399	01/25/2008	Hiroshi Imoto	2008_0102A	4959

7590 05/28/2010
WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

EXAMINER
OH, TAYLOR V

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
05/28/2010	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Tom Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/989,506	09/16/2009	Roger A. Smith	5246	5741

7590 05/17/2010

Barbara A. Shimei
Director, Patents & Licensing
Bayer HealthCare LLC - Pharmaceuticals
555 White Plains Road, Third Floor
Tarrytown, NY 10591

EXAMINER
CHANDRAKUMAR, NIZAL S

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
05/17/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Tomi Furmic

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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14 DEC 2009

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James A. Oliff
OLIFF & BERRIDGE, PLC
P. O. Box 320850
Alexandria, VA 22320-4850

In re Application of: FUJITA, Shogo	:	DECISION
U.S. Application No.: 11/989,547	:	
PCT No.: PCT/JP2006/315700	:	
International Filing Date: 02 August 2006	:	UNDER
Priority Date: 05 August 2005	:	
Atty's Docket No.: 134974	:	
For: INJECTION NOZZLE AND PINNING METHOD USING THE SAME	:	37 CFR 1.181

This decision is issued in response to applicant's "RESPONSE TO NOTICE TO FILE MISSING PARTS DECLARATION ALREADY FILED" filed 22 July 2009, which has been treated as a petition under 37 C.F.R. 1.181. No petition fee is required.

BACKGROUND

On 28 January 2008, applicants filed National Phase application papers requesting entry into the national phase in the United States of America under 35 U.S.C. 371. The National Phase application filing included, *inter alia*, the requisite basic national fee; a Transmittal Letter (PTO-1390); and an application data sheet.

On 14 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) which required oath or declaration to be submitted along with $65 surcharge for late submission of the oath or declaration.

On 22 July 2009, applicant filed the instant "petition" including a copy of the declaration filed on 28 January 2009 and copy of the return receipt.

On 17 September 2009, the DO/EO/US mailed a "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) and Filing Receipt that identifying 22 July 2009 as a 371 (c)(1), (c)(2), and (c)(4) date. Further, the surcharge of $65 was charged to the applicant's deposit account.

DISCUSSION

A review of the papers reveals that the applicant has provided sufficient evidence to establish that the declaration was filed on 28 January 2008. The proof is the received date of 28 January 2008 stamped by the USPTO on the return receipt which itemized the declaration. Therefore, the correction of the 35 U.S.C. 371 date to 28 January 2008 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 28 January 2008. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) mailed on 17 September 2009 is hereby **VACATED**.

The surcharge of $65 for late submission of the declaration has been credited to the applicant's deposit account.

The application has an international filing date of 02 August 2006 under 35 U.S.C. 363 and a date of 28 January 2008 under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) which identifies a date of 28 January 2008 under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a 371 (c)(1), (c)(2), and (c)(4) date of 28 January 2008.

Leonard E Smith

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Harry C. Kim
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3285

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2 2 JAN 2009

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of ALVAREZ et al. Application No.: 11/989,553 PCT No.: PCT/US06/29670 Int. Filing Date: 31 July 2006 Priority Date: 02 August 2005 Atty Docket No.:3194.1039-009 For: SYSTEMS AND METHODS FOR CAPTURE SUBSTRATES	DECISION ON under 37 CFR 1.497(d)

This is a decision on applicant's' "Request for Correction of Inventorship under 37 CFR 1.497(d)", filed on 26 September 2008 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 26 September 2008, applicant filed executed declarations along with a "Request for Correction of Inventorship under 37 CFR 1.497(d)". Daniel Alvarez, Jr. and Troy B. Scoggins were named as inventors in the published international application PCT/US06/29670. The declaration submitted with the petition also identified Jeffrey J. Spiegelman as a joint inventor. Applicant requests the addition of inventor Spiegelman.

DISCUSSION

Petition under 37 CFR 1.497(d)

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

With respect to Item (1), Petitioner has provided a statement from Jeffrey J. Spiegelman that any error in inventorship occurred without deceptive intention on his part. Applicant satisfied Item (2) above with the submission of the petition fee.

With regard to Item (3), an assignment of the application has occurred and the Written Consent of the assignee consenting to the addition of Jeffrey J. Spiegelman as inventor in this application to correct the inventorship under 37 CFR 1.497(d)(3) was provided. Item (3) above is satisfied.

Accordingly, applicant has met all of the requirements to add Jeffrey J. Spiegelman as a co-inventor in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

CONCLUSION

The petition under 37 CFR 1.1497(d) to Add Inventor Jeffrey J. Spiegelman in the above-captioned application is **GRANTED.**

The declaration, executed by Jeffrey J Spiegelman, Daniel Alvarez, Jr. and Troy B. Scoggins as joint inventors in the above referenced application, is acceptable and in compliance with 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 26 September 2008.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571)272-3286
Facsimile: (571)273-0459

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application: :
Severino Bigliardi :
Application No. 11/989,572 :
Filed: January 28, 2008 :
Attorney Docket No. 66995-021-7 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 10, 2010. 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. The petition is **GRANTED**.

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.

This file is being forwarded to the Technology Center.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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20 FEB 2008

Delphi Technologies, Inc.
M/C 480-410-202
P.O. Box 5052
Troy, MI 48007

In re Application of KATTERMAN, et al. Serial No.: 11/989,587 PCT No.: PCT/US06/29750 Int. Filing Date: 28 July 2006 Priority Date: 28 July 2005 Atty Docket No.: DP-314270 For: SENSOR ISOLATION PLANE FOR PLANER ELEMENTS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the applicant's petition under 37 C.F.R. § 1.47(a) filed 28 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 July 2006, applicant filed international application PCT/US06/29750 which claimed priority to an earlier application filed 28 July 2005. Pursuant 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 January 2008.

On 28 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee, an Information Disclosure Statement, a preliminary amendment and the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor, David P. Wallace. As authorized, the $200.00 petition fee will be charged to deposit account 50-0831.

DISCUSSION

Applicant is advised that 37 CFR 1.47 applies only where a **known** legal representative or heir(s) of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the present case, for the reasons detailed in the petition and supporting papers, applicant has not provided any information regarding the deceased inventor's legal representative or heir(s). As such, the petition under 37 CFR 1.47 to accept the application without the legal representative or heirs(s) is inappropriate pursuant to MPEP 409.03(c). Applicant states that the mother of the deceased stated that Mr. Wallace "had died without a will and left no estate that had to be probated." However, at a minimum, Mr. Wallace would have a surviving heir or heirs. In order to proceed under 35 U.S.C. 371, applicant must seek Mr.

Wallace's current legal representative or heirs. Where there is no legal representative to the estate, any court of competent jurisdiction should appoint the legal representative for the sole purpose of prosecuting the application.

In a similar vein, the filed declaration does not comply with 37 CFR 1.497(a)-(b) in that no information has been provided on the declaration for the legal representative or heir(s). The filed declaration lists Mr. Wallace with his signature block left unsigned leaving the impression that he is refusing to execute the declaration rather than the fact that he is deceased.

37 CFR 1.42 When the Inventor is Dead, states, in part:

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

In order to proceed under 37 CFR 1.47(a), applicant is required to identify the non-signing party, i.e. the legal representative as detailed above. 37 CFR 1.497(b) requires that the declaration identify and provide the citizenship for both the deceased inventor and the legal representative. Accordingly, the petition under 37 CFR 1.47(a) is dismissed.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

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

0 5 MAY 2008

Delphi Technologies, Inc.
M/C 480-410-202
P.O. Box 5052
Troy, MI 48007

In re Application of	:	
KATTERMAN, et al.	:	DECISION ON RENEWED
Application No.: 11/989,587	:	
PCT No.: PCT/US06/29750	:	PETITION UNDER
Int. Filing Date: 28 July 2006	:	
Priority Date: 28 July 2005	:	37 CFR 1.47 AND STATUS
Attorney Docket No.: DP-314270	:	
For: SENSOR ISOLATION PLANE FOR	:	UNDER 37 CFR 1.42
PLANER ELEMENTS	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR §1.47(a) / Petition For Acceptance of Declaration Under 37 CFR §1.42" filed 15 April 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 February 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 15 April 2008, applicant filed the present response.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.47(a)

As applicant has presently filed a declaration executed by the legal representatives to the estate of co-inventor David P. Wallace, the renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

II. Request For Status Under 37 CFR 1.42

37 CFR 1.42 states:

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

Applicant has presently filed a combined declaration and power of attorney executed by the legal representatives to the estate of co-inventor David P. Wallace, as well as a declaration executed by co-inventor James Katterman. The declarations provides the residence, mailing address and citizenship of both inventors, as well as, the legal representatives to the estate of co-inventor David P. Wallace. As such, it is proper to grant applicant's petition under 37 CFR 1.42 at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 28 July 2006 and a date of **15 April 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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17 APR 2008

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of: GRAY, Leonard, J. :
U.S. Application No.: 11/989,634 :
PCT No.: PCT/US2005/030336 :
International Filing Date: 26 August 2005 :
Priority Date: 27 August 2004 :
Atty Docket No.: 4753-001 :
For: COMPUTATIONAL STIMULATION SYSTEMS AND METHODS USING BOUNDARY INTEGRAL EQUATIONS :

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 29 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

International application PCT/US2005/030336 became abandoned with respect to the U.S. at midnight on 27 February 2007 based on applicants' failure to enter the U.S. national stage and pay the basic national fee prior to the expiration of thirty months from the priority date.

The present petition for revival includes payment of the required petition fee and the "required reply" in the form of a request for entry into the U.S. national stage and payment of the small entity basic national fee. In addition, the present petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application is granted with respect to the U.S.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905). It is noted that applicant have not yet submitted an executed declaration in compliance with 37 CFR 1.497.

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

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

OCT 9 2008

CST

In re application of Tsutao Katayama Serial No. 11/989,652 Filed: January 29, 2008 For: METHOD FOR MOLDING FIBER-REINFORCED THERMOPLASTIC COMPOSITE MATERIAL	:	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d) to make the above-identified application special, filed August 26, 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:	
Tetsuro Kikuchi, et al	:	
Application No. 11/989,696	:	DECISION ON PETITION
Filed: January 30, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2008_0121A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 9, 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 Rikiya Kato. 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 back to the Office of Patent Application Processing for further processing. This decision will be accorded "special" once pre-examination processing is complete.

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

1 OCT 2009

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IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

In re Application of	:	
SCHEIN et al.	:	
Application No.: 11/989,719	:	DECISION
PCT No.: PCT/EP2006/007625	:	
Int. Filing Date: 02 August 2006	:	
Priority Date: 05 August 2005	:	
Attorney Docket No.: RUF-07-1551	:	
For: MOBILE CHARGERS FOR CHARGING	:	
SECONDARY BATTERIES FROM SECONDARY	:	
BATTERIES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 18 August 2009 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 02 August 2006, applicants filed international application PCT/EP2006/007625, which designated the United States and claimed a priority date of 05 August 2005. A copy of the international application was communicated from the International Bureau to the USPTO on 15 February 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 February 2008.

On 30 January 2008, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 20 March 2009, the United States Designated/Elected Office (DO/EO/US) issued a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 18 August 2009, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a three-month extension of time, a declaration of inventors, a statement of facts by Dr. Martin Krebs, a statement of facts by Dr. Michael Eberle, and supporting documentation.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(i); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been met. Item (2) has been met as well. It has been established that Mr. Ilic was presented with a copy of the application papers including the specification (declaration of Dr. Eberle and supporting documentation) and that Mr. Ilic refused to sign (declaration of Dr. Eberle).

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **18 August 2009**.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

1 OCT 2009

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

Dejan Ilic
Badgasse 5/26
73479 Ellwangen
Germany

In re Application of
SCHEIN et al.
Application No.: 11/989,719
PCT No.: PCT/EP2006/007625
Int. Filing Date: 02 August 2006
Priority Date: 05 August 2005
Attorney Docket No.: RUF-07-1551
For: MOBILE CHARGERS FOR CHARGING SECONDARY BATTERIES FROM SECONDARY BATTERIES

Dear Mr. Ilic:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

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DARBY & DARBY
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

Applicant: Friedrich Lehnert
Appl. No.: 11/989,741
International Filing Date: January 12, 2006
Title: TESTING DEVICE FOR HIGH-PRESSURE INJECTORS OF A COMMON RAIL INJECTION SYSTEM, AND METHOD FOR TESTING HIGH-PRESSURE INJECTORS
Attorney Docket No.: 01954/0208913-US0
Pub. No.: US 2009/0114035 A1
Pub. Date: May 7, 2009

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

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the foreign application priority data was not published correctly.

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 foreign application priority data DE 202005011855.9 is misprinted as GERMANY 102005002622.2 may be Office error, but is not a material Office error under 37 CFR 1.221. The misprinting of the foreign priority data does not affect the understanding of the application. The misprint 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

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

applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

On December 19, 2008 and January 27, 2009, Filing Receipt's were mailed by the Office, which incorrectly listed the foreign application priority data. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a corrected filing receipt prior to export of the publication to the publisher. As indicated on the Filing Receipt, to facilitate processing, a corrected copy of the Filing Receipt should be included with the request.

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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Alexandria, VA 22313-1450
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Buchanan, Ingersoll & Rooney, PC
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
WANG	:	DECISION ON PETITION
Application No.: 11/989,757	:	
PCT No.: PCT/CN05/02086	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 05 December 2005	:	
Priority Date: 07 July 2005	:	
Attorney Docket No.: 1033485-000004	:	
For: ECONOMIZING ON WATER TYPE WASHING	:	
AND STERILIZING METHOD FOR	:	
VEGETABLES AND FRUITS	:	

The petition to revive under 37 CFR 1.137(b) filed 31 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and explanation regarding the delay in filing the present petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file and USPTO records reveals that applicant has now provided a compliant computer readable format of the sequence listing. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 05 December 2005 under 35 U.S.C. 363 and will be given a date of **31 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

19 FEB 2008

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Dann, Dorfman, Herrell & Skillman
1601 Market Street
Suite 2400
Philadelphia, PA 19103-2307

In re Application of	:	
CASPER, et al.	:	
Application No.: 11/989,787	:	
PCT No.: PCT/CA06/01079	:	DECISION ON PETITION
Int. Filing Date: 28 June 2006	:	
Priority Date: 28 June 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 3241-P04524USO	:	
For: AROMATASE INHIBITORS FOR EMERGENCY CONTRACEPTION	:	

The petition to revive under 37 CFR 1.137(b) filed 28 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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

2 6 MAR 2008

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

Mary Lou Wakimura
HAMILTON, BROOK, SMITH & REYNOLDS, P. C.
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

In re Application of:		
Neil T. Hefferman et al	:	DECISION ON
U. S. Application No.: 11/989,791	:	PETITION
PCT Application No.: PCT/US2006/027211	:	UNDER
Int. Filing Date: 13 July 2006	:	37 CFR 1.137(b)
Priority Date: 15 July 2005	:	
For: GLOBAL COMPUTER NETWORK TUTORING SYSTEM		

Applicant's "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR §1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 29 January 2008 is **GRANTED**.

BACKGROUND

On 13 July 2006, applicant filed international application PCT/US2006/027211. The international application designates the United States. The deadline for paying the basic national fee for the United States National Stage was 15 January 2008 which is thirty months from the priority date of 15 July 2005. Applicant missed the deadline by failing to pay the appropriate national fee and the application became abandoned at midnight 15 January 2008.

On 29 January 2008, applicant filed the instant petition for revival accompanied by, *inter alia*, the basic national fee, the petition fee under 37 C.F.R. 1.17(m) and, a statement that the entire delay was unintentional.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "The entire delay in filing the required reply from the due date for the required reply, until the filing of the grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 13 July 2006 under 35 U.S.C. 363. The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Cathy Lam
Detailee
Office PCT Legal Administration

Telephone: (571) 272-6095

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

MAY 24 2010

OFFICE OF PETITIONS

BARRY KEITH SMITH
1067 HERMITAGE CIRCLE
BIRMINGHAM, AL 35242

In re Application of	:	
Michael Jason Manning	:	DECISION ON PETITION
Application No. 11/989,792	:	TO WITHDRAW
Filed: January 30, 2008	:	FROM RECORD
Attorney Docket No. Manning	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 15, 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 Barry Keith Smith, on behalf of all practitioners of record.

Barry Keith Smith has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 29, 2010 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MICHAEL JASON MANNING
531 MAIN STREET
WARRIOR, AL 35180

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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
11/989,792	01/30/2008	Michael Jason Manning	Manning

CONFIRMATION NO. 6956

POWER OF ATTORNEY NOTICE

87304
Barry Keith Smith
1067 Hermitage Circle
Birmingham, AL 35242

OC000000041745745

Date Mailed: 05/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/15/2010.

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

/atkelley/

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

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2 2 FEB 2008

WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

In re Application of CHIU et al	:	
U.S. Application No.: 11/989,808	:	
PCT Application No.: PCT/US2006/030216	:	DECISION
Int. Filing Date: 02 August 2006	:	
Priority Date Claimed: 02 August 2005	:	
Attorney Docket No.: 040363 004P2	:	
For: MULTI-FUNCTION PACKAGE OPENER	:	

This is in response to applicant's "Petition Under 37 CFR 1.47(a)" filed 31 January 2008.

BACKGROUND

On 02 August 2006, applicant filed international application PCT/US2006/030216, which claimed priority of an earlier United States application filed 02 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 02 February 2008.

On 31 January 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.47(a).

DISCUSSION

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

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor. However, the declaration is an improper composite document. It is not acceptable to combine separate pages (i.e. signature pages) from different copies of a declaration into a single

document. In particular, the signature page executed by Michael Sherman appears to have been transmitted by facsimile and then added to the remaining declaration pages. Applicant must submit either: (1) a single complete declaration which is presented to and executed by all of the available inventors or (2) multiple complete declarations, wherein each of the available inventors is presented with and executes at least one of the multiple complete declarations.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Ming-Hsiang Chiu refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Chiu for signature (see Exhibit A). The FedEx tracking summary (see Exhibit A) indicates that the application papers were successfully delivered to Chiu's last known address. However, the petition does not sufficiently illustrate that Chiu refuses to sign. In particular, a copy of the electronic mail correspondence noted in the petition has not been provided. Furthermore, merely seven days had elapsed from the date of delivery of the application papers to the date the present petition was filed, which is not deemed a sufficient period of time to show a refusal to cooperate. Thus, it would not be reasonable to conclude at the present time that Chiu refuses to join in the application.

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

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

CONCLUSION

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

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

09 MAY 2008

In re Application of CHIU et al	:	
U.S. Application No.: 11/989,808	:	
PCT Application No.: PCT/US2006/030216	:	DECISION
Int. Filing Date: 02 August 2006	:	
Priority Date Claimed: 02 August 2005	:	
Attorney Docket No.: 040363 004P2	:	
For: MULTI-FUNCTION PACKAGE OPENER	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 23 April 2008.

BACKGROUND

On 02 August 2006, applicant filed international application PCT/US2006/030216, which claimed priority of an earlier United States application filed 02 August 2005. The thirty-month period for paying the basic national fee in the United States expired on 02 February 2008.

On 31 January 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a petition under 37 CFR 1.47(a).

On 22 February 2008, this Office mailed a decision dismissing the 31 January 2008 petition.

On 23 April 2008, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be

reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (3) and (4) above.

With regard to item (1) above, the renewed petition is accompanied by declarations signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Ming-Hsiang Chiu refuses to sign the application papers. Petitioner has previously demonstrated that a bona fide attempt was made to present a copy of the application papers to Chiu for signature (see Exhibit A). The FedEx tracking summary (see Exhibit A) indicates that the application papers were successfully delivered to Chiu's last known address. Furthermore, the petition sufficiently illustrates that Chiu refuses to sign. In particular, Chiu's failure to respond to the letter dated 21 January 2008 is deemed a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Chiu refuses to join in the application.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 02 August 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 April 2008.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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21 FEB 2008

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

In re Application of PAPARONI	:	
Application No.: 11/989,813	:	
PCT No.: PCT/BR05/00142	:	DECISION ON
Int. Filing: 27 July 2005	:	
Priority Date: None	:	PETITION TO REVIVE
Attorney Docket No.:4376/105156	:	
For: DEVICE TO ACTUATE AN AUTOMOTIVE	:	UNDER 37 CFR 1.137(b)
GEAR BOX AND SYSTEM TO TRANSFORM	:	
AN ACTUATION DEVICE BY BEAMS.....	:	

The petition to revive under 37 CFR 1.137(b) filed 30 January 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of this grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $155 has now been provided. The required petition fee of $770 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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22 FEB 2008

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
KODA/ADROLIA
865 S. FIGUEROA STREET, 10TH FLOOR
LOS ANGELES, CA 90017

In re Application of KANEKO et al	:	
U.S. Application No.: 11/989,818	:	
PCT Application No.: PCT/JP2005/006845	:	
Int. Filing Date: 07 April 2005	:	DECISION
Priority Date Claimed: none	:	
Attorney Docket No.: 21590/211A 4105 PCT	:	
For: HOLOGRAM RECORDING MEDIUM AND	:	
METHOD FOR MANUFACTURING SAME	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 31 January 2008.

BACKGROUND

On 07 April 2005, applicant filed international application PCT/JP2005/006845. A copy of the international application was communicated to the USPTO from the International Bureau on 02 November 2006. The thirty-month period for paying the basic national fee in the United States expired on 07 October 2007.

International application PCT/JP2005/006845 became abandoned as to the United States for failure to timely pay the basic national fee.

On 31 January 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 07 April 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 31 January 2008.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

17 JUL 2009

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

In re Application of WIRTZ, Ralph Markus, et al. Application No.: 11/989,830 PCT No.: PCT/US2006/028180 Int. Filing Date: 20 July 2006 Priority Date: 29 July 2005 Attorney's Docket No.: 2005P56017WOUS For: DIAGNOSTIC METHODS FOR THE PREDICTION OF THERAPEUTIC SUCCESS, RECURRENCE FREE AND OVERALL SURVIVAL IN CANCER THERAPY	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to request under 37 CFR 1.497(d), filed in the United States Patent and Trademark Office on 12 March 2009.

BACKGROUND

On 10 February 2009, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 12 March 2009, applicants filed a declaration of the inventors and this request under 37 CFR 1.497(d).

DISCUSSION

Applicants file this request to add George Fountzilas, as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied.

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration is composed of one page 1 and 2 and two pages 3. Each page three was separately executed. While it is

acceptable for inventors to execute separate copies of the oath or declaration, each copy must list all of the inventors. The complete copy of the declaration, as executed by the inventor, must be returned to the Office. It appears that at least two separate copies of the declaration were pieced together to create a singled composite declaration. An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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2 8 JAN 2010

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22428
FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of :
DEXTER *et al* :
U.S. Application No.: 11/989,855 :
PCT No.: PCT/US2006/030402 :
Int. Filing Date: 03 August 2006 : **DECISION**
Priority Date: 04 August 2005 :
Attorney Docket No.: 091330-0117 :
For: CONFIGURABLE SEATING AND :
CONSOLE SYSTEM :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 23 November 2009.

BACKGROUND

On 24 April 2009, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b). Applicants were given two months to respond. Extensions of time under 37 CFR 1.136(a) were available.

On 30 November 2009, applicants filed the subject petition which was accompanied by, *inter alia*, a five-month extension and fee; a $200.00 petition fee, a declaration executed by nine of the ten named inventors, and documentary evidence in support of the petition (Exhibits A - F).

DISCUSSION

Applicants claim that one of the inventors, Michael J. BURNS, refuses to cooperate and have filed the subject petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventor.

Applicants submitted a $200.00 petition fee. The last known address of the nonsigning inventor is listed in the petition. A declaration signed by nine of the ten

named inventors was provided. This declaration complies with 37 CFR 1.497(a) and (b) and satisfies the requirements of section 409.03(a) of the MPEP.

Items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2) of 37 CFR 1.47(a), applicants provided a statement of facts by Mr. Gustafson who states that Mr. BURNS deleted emails without reading them sent by an associate. A copy of an exemplary email and automated reply was provided in exhibit A. Mr. Gustafson followed this up with another email that was also deleted without being read (exhibits B - C). After obtaining the address for Mr. BURNS (exhibit D), petitioners sent a copy of the application by mail which was delivered by FedEx on 05 November 2009 (exhibits E - F). Petitioners claim that Mr. Burns called on 05 November 2009 asking about the package from FedEx and that no response has been received as of the date of the petition.

A review of the evidence shows that a complete copy of the subject application and a copy of the declaration was provided and received by the nonsigning inventor. The actions taken by Mr. BURNS described in the statement of facts constitutes a refusal to cooperate as contemplated by MPEP § 409.03(d)(II). This is sufficient to satisfy item (2) of 37 CFR 1.47(a).

All requirements of 37 CFR 1.47(a) are satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is hereby **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 August 2006, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 23 November 2009.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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28 JAN 2010

Michael J. Burns
6670 Brookwood Drive
Grandville, MI 49418

In re Application of
DEXTER *et al*
U.S. Application No.: 11/989,855
PCT No.: PCT/US2006/030402
Int. Filing Date: 03 August 2006
Priority Date: 04 August 2005
Attorney Docket No.: 091330-0117
For: CONFIGURABLE SEATING AND CONSOLE SYSTEM

Mr. Burns:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

17 APR 2008

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

In re Application of	:	
LEE, Myung Ryul et al.	:	
Application No.: 11/989,870	:	DECISION
PCT No.: PCT/KR2005/000295	:	
Int. Filing Date: 01 February 2005	:	ON PETITION UNDER
Priority Date: None	:	
Docket No.: K-0968	:	37 CFR 1.137(b)
For: REFRIGERATOR	:	

Applicant's Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 01 February 2008 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The search fee, examination fee, and fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 16-0607, as authorized.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 6 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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John C. Eisenhart
KED & ASSOCIATES, LLP
2325 Dulles Corner Blvd
Suite 1100
Herndon, VA 20171

In re Application of: Wook Yong LEE et al	:	DECISION ON
U. S. Application No.: 11/989,891	:	PETITION
PCT Application No.: PCT/KR2005/000294	:	UNDER
Int. Filing Date: 01 February 2005	:	37 CFR 1.137(b)
Priority Date: None	:	
	:	
For: REFRIGERATOR WITH ICEMAKER		

Applicant's "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR §1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 01 February 2008 is **GRANTED**.

BACKGROUND

On 01 February 2005, applicant filed international application PCT/KR2005/000294. The international application designates the United States. The deadline for paying the basic national fee was 01 August 2007 which is thirty months from the priority date of 01 February 2005. Applicant missed the deadline by failing to pay the appropriate national fee and the application became abandoned at midnight 01 August 2007.

On 01 February 2008, applicant filed the instant petition for revival accompanied by, *inter alia*, the basic national fee, the petition fee under 37 C.F.R. 1.17(m) and, a statement that the entire delay was unintentional.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "The entire delay in filing the required reply from the due date for the required reply, until the filing of the grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application has an international filing date of 01 February 2005 under 35 U.S.C. 363. The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Cathy Lam
Detailee
Office PCT Legal Administration

Telephone: (571) 272-6095

06 NOV 2008

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LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY CA 92708

In re Application of	:	
KIM	:	
Application No.: 11/989,897	:	
PCT No.: PCT/KR06/03064	:	DECISION ON PETITION
Int. Filing Date: 04 August 2006	:	
Priority Date: 04 August 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: YGKIM.VehicleSignboard	:	
For: SIGNBOARD FOR VEHICLE	:	

The petition to revive under 37 CFR 1.137(b) filed 07 April 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the U.S. Basic National fee and an executed declaration of the inventor. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied with the filing of the executed declaration of the inventors and payment of the appropriate surcharge.

The application has an international filing date of 04 August 2006 under 35 U.S.C. 363 and will be given a date of **07 April 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

17 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of	:	
KIM et al.	:	
Application No.: 11/989,949	:	DECISION ON
PCT No.: PCT/KR2006/001721	:	
Int. Filing Date: 08 May 2006	:	PETITION UNDER
Priority Date: 09 May 2005	:	
Attorney Docket No.: 4898-089	:	37 CFR 1.137(b)
For: AIR CONDITIONING SYSTEM FOR CAR	:	

This decision is in response to applicant's submission filed 04 February 2008.

BACKGROUND

On 08 May 2006, applicant filed international application PCT/KR2006/001721 which designated the U.S. and claimed a priority date of 09 May 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 November 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 November 2007.

On 04 February 2008, applicant filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of the inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 04 February 2008.

As to item (2), applicant submitted the petition fee on 04 February 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of the inventors filed 04 February 2008 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(h) of $130 for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 07-1337.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/989,954	02/04/2008	Ian Frederick Haynes	A-10844	9505

20741 7590 12/28/2009
HOFFMAN WASSON & GITLER, P.C
CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202-3843

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
12/28/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOFFMAN WASSON & GITLER, P.C
CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON VA 22202-3843

Applicant: Haynes et al.
Appl. No.: 11/989,954
Filing Date: February 4, 2008
Title: COMPUTERIZED INFORMATION COLLECTION AND TRAINING METHOD AND APPARATUS
Attorney Docket No.: A-10844
Pub. No.: US 2009/0262191 A1
Pub. Date: October 22, 2009

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 15, 2009, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant did not file the papers via the electronic filing system. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

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

Any questions or requests for reconsideration of the decision should be addressed as follows:

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Office of Data Management
United States Patent & Trademark Office

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Adjustment date: 12/29/2009  KKING1
12/16/2009 TLUU22   00000075 11989954
01 FC:1504                      -300.00 OP
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Refund Ref:
12/29/2009  KKING1    0000169725
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     CHECK Refund Total:      $300.00
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www.uspto.gov

CST

SEP 15 2008

In re application of Noboru Kanba et al Serial No. 11/989,958 Filed: February 4, 2008 For: SEPARATOR FOR FUEL CELL AND PRODUCTION PROCESS FOR THE SAME	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d) to make the above-identified application special, together with the preliminary amendment filed February 4, 2008, and the second preliminary amendment, filed July 28, 2008.

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, 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 pilot program and petition fail because:

(1) The JPO application with similar claims (Japanese Patent Application No. 2007-529577) is not the same application from which the U.S. application claims priority (Japanese Patent Application No. 2005-227822) and applicant has not identified the relationship between the JPO application with similar claims and the JPO priority application; and

(7) The required petition fee under 37 CFR 1.17(h) has not been submitted.

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

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

CST

NOV 1 2 2008

In re application of Noboru Kanba et al Serial No. 11/989,958 Filed: February 4, 2008 For: SEPARATOR FOR FUEL CELL AND PRODUCTION PROCESS FOR 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 Response to Decision on the Request to Participate in the Patent Prosecution Highway (PPH) program filed September 26, 2008.

The request and petition are **GRANTED**.

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

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

(2) Applicant must submit a copy of:

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

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

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

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

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

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

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

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

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/989,966	11/13/2008	Peter V. Meyers	14920.0061	9530

27890 7590 02/17/2010
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

ART UNIT	PAPER NUMBER
2812	

MAIL DATE	DELIVERY MODE
02/17/2010	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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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of	:	
Peter V. MEYERS	:	DECISION ON PETITION
Application No. 11/989,966	:	TO MAKE SPECIAL UNDER
Filed: 04 February 2008	:	THE GREEN TECHNOLOGY
Attorney Docket No. **14920.0061**	:	PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed 10 December 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 2 above.

In regard to item 2, petitioner should note that a review of the application claims has been made for the purposes of determining the number of claims contained therein. This application contains more than 3 independent claims. As set forth in the Notice, if the application contains more than 3 independent claims or more than 20 total claims, it will not be eligible to participate in the "Pilot Program for Green Technologies Including Greenhouse Gas Reduction."

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 inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2812 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center 2800

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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.
11/989,966	11/13/2008	Peter V. Meyers	14920.0061	9530

27890 7590 04/02/2010
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

ART UNIT	PAPER NUMBER
2812	

MAIL DATE	DELIVERY MODE
04/02/2010	PAPER

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

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

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of	:	
Peter V. MEYERS	:	DECISION ON PETITION
Application No. 11/989,966	:	TO MAKE SPECIAL UNDER
Filed: 13 November 2008	:	THE GREEN TECHNOLOGY
Attorney Docket No. 14920.0061	:	PILOT PROGRAM

This is a decision on the petition under 37 CFR 1.102, filed 10 December 2009 and renewed on 17 March 2010, to make the above-identified application special under the pilot program for applications pertaining to Green Technologies as set forth 74 Federal Register Notice 64666 (December 8, 2009).

The petition is **GRANTED**.

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

In order to qualify for special status, the following requirements must be met. 1) The application must be classified in one of the eligible US classifications listed in section VI of the notice. 2) The application must have no more than 3 independent claims and no more than 20 total claims. 3) The application must not contain any multiple dependent claims. 4) The petition must state the basis for seeking special status, i.e., the claimed invention either: A) materially enhances the quality of the environment or B) materially contributes to: i) the discovery or development of renewable energy resources, ii) the more efficient utilization and conservation of energy resources, or iii) greenhouse gas emission reduction. 5) If the disclosure is not clear on its face that the claimed invention materially contributes under category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. 6) A statement that applicant will agree to make an election without traverse in a telephonic interview if a restriction requirement is made by the examiner. 7) The petition to make special must be filed electronically. 8) The petition must be filed at least one day prior to the date that a first Office Action appears in the Patent Application Information Retrieval (PAIR) system. 9) The petition

must be accompanied by a request for early publication in compliance with 37 CFR 1.219 and include the publication fee as set forth in 37 CFR 1.18(d).

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

The instant petition complies with items 1 – 9 above. Accordingly, the above-identified application has been accorded "special" status.

The early publication fee of $300 has been charged to the deposit account of record.

Telephone inquires concerning this decision should be directed to Lee W. Young at 571-272-4549.

The application is being forwarded to the Technology Center Art Unit 2812 for action on the merits commensurate with this decision.

Lee W. Young
Quality Assurance Specialist
Technology Center2800

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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21 FEB 2008

27885
FAY SHARPE LLP
1100 Superior Avenue,
Seventh Floor
Cleveland, OH 44114

In re Application of	:	
KANTANEVA, Marko	:	
U.S. Application No.: 11/989,975	:	
PCT No.: PCT/FI2004/000733	:	**DECISION ON**
Int. Filing Date: 02 December 2004	:	**PETITION UNDER**
Priority Date: None	:	**37 CFR 1.137(b)**
Attorney Docket No.: PAPU 2 00009	:	
For: HAND STRAP OF A POLE	:	

Applicant's petition to revive under 37 CFR 1.137(b) filed on 01 February 2008 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT and TRADEMARK OFFICE

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

27 FEB 2008

William J. McNichol, Jr.
Reed Smith LLP
Intellectual Property
P.O. Box 7990
Philadelphia, PA 19101-7990

In re Application of	:	DECISION ON
GIORDANO, Antonio	:	
Application No.: 11/990,031	:	
PCT No.: PCT/US2005/046069	:	
Int. Filing Date: 20 December 2005	:	PETITION UNDER
Priority Date: 12 July 2005	:	
Attorney's Docket No.: 07-40074- US	:	
For: GENETIC AND...	:	
TREAMENT OF CANCER	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 05 February 2008.

BACKGROUND

On 20 December 2005, this international application was filed, claiming an earliest priority date of 12 July 2005.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 January 2008. This international application became abandoned with respect to the United States at midnight on 12 January 2008 for failure to pay the required basic national fee.

On 05 February 2008, applicant filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee. However, no executed declaration was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

1 0 NOV 2009

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MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of	:	DECISION ON
BUTORA et al	:	
Application No.: 11/990,051	:	
PCT No.: PCT/US2006/030549	:	
Int. Filing Date: 4 August 2006	:	PETITION UNDER
Priority Date: 9 August 2005	:	
Attorney's Docket No.: 21980P	:	
For: RIBONUCLEOSIDE CYCLIC ACETAL...	:	
VIRAL INFECTION	:	37 CFR 1.10 (c)

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT," which is being treated as petition under 37 CFR 1.10(c) filed on 28 January 2009 requesting the filing date of 01 February 2008 be changed to 05 February 2008 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 05 February 2008, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration.

On 07 January 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 02/01/2008.

On 28 January 2009, applicants filed the present petition stating that the application was in fact deposited with the USPS on 05 February 2008 as evidenced by the Express Mail Corporate Account for "Express Mail Label" EM106889826US.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The petition was filed promptly. 37 CFR 1.10(c)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EM106889826US was placed on the "Transmittal letter Page 1A" prior to the original mailing by "Express Mail." CFR 1.10(c)(2). Finally, the copy of the Mail Corporate Account Statement and the USPS Pickup Service Statement filed with the present petition identifies the day of deposit as "2-5-08 (February 5, 2008)," which shows that the above national stage application was submitted on 05 February 2008. 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

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

The Notification of Acceptances (Form PCT/DO/EO/903) mailed on 01/07/2009 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a new PCT/EO/DO/ form 903. The 35 USC 371(c)(1), (c)(2), and (c)(4) date and the date of completion of all 35 USC 371 requirements of this application is **05 February 2008.**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 4/14/10

TO SPE OF : ART UNIT: 1623 ATTN: JIANG SHAOJIA A. (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/990051 Patent No.: 7632821

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 (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
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.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,632,821 B2

APPLICATION NO.: 11/990,051

ISSUE DATE : December 15, 2009

INVENTOR(S) : Butora et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

(1) On page 1, in the third line of Part (86), replace "Feb. 1, 2008" with --Feb. 5, 2008--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Merck Sharp & Dohme Corp.
P.O. Box 2000
Rahway, NJ 07065-0907

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 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: **Attention Certificate of Corrections Branch, 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 5/24/10

TO SPE OF : ART UNIT: 1623 ATTN: JIANG SHAOJIA A. (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/990051 Patent No.: 7632821

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 (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XX Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ — SPE

1623 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 5/24/10

TO SPE OF : ART UNIT: 1623 ATTN: JIANG SHAOJIA A. (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/990051 Patent No.: 7632821

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 (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XX Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/ — SPE

1623 — Art Unit

1 3 AUG 2009

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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CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND OH 44145

In re Application of	:	
BELL et al.	:	
Application No.: 11/990,103	:	
PCT App. No.: PCT/CH06/00427	:	
Int'l Filing Date: 14 August 2006	:	DECISION
Priority Date: 15 August 2005	:	
Attorney's Docket No.: GIV.P30191	:	
For: COOLING COMPOUNDS	:	

This is a decision on applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS FOR INTERNATIONAL APPLICATION ENTERING THE NATIONAL STAGE IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/US) UNDER 35 USC §371" filed in the United States Patent and Trademark Office (USPTO) on 12 January 2009.

BACKGROUND

On 14 August 2006, applicant filed international application No. PCT/CH06/00427 which claimed a priority date of 15 August 2005 and which designated the United States. Thereafter, on 05 February 2008, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 11 March 2008, applicant filed an partially executed declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period.

On 12 November 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed, indicating that an oath or declaration was not in compliance with 37 CFR 1.497(a) and (b) as there are four inventors listed on the published international application and on the declaration, yet only three of the four inventors signed the declaration.

On 12 January 2009, applicant filed a response to the 905 along with copies of three complete declarations and an illegible USPTO date-stamped itemized post card receipt. The response indicated that the declaration and the surcharge for filing the oath or declaration after the thirty-month period were filed on 11 March 2008.

DISCUSSION

The declaration submitted on 11 March 2008 is found in the application file. While the declaration is a three page declaration, the declaration as submitted is comprised of five pages. There are 2 "Page 2 of 3" and 2 "Page 3 of 3",which are executed by different inventors. The declaration appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to

execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." *See* MPEP 201.03. [1] The declaration is unacceptable as filed. In addition, Inventor Lori W. Tigani did not execute either copy of Page 3.

Moreover, the itemized postcard receipt identifying the above referenced application and date-stamped by the USPTO "11 Mar 2008" is illegible as filed electronically and thus, is not proof that complete declarations were filed on 11 March 2008.

One of the three complete declarations, submitted on 12 January 2009, is executed by Lori W. Tigani and is illegible. The declaration executed by inventors Bell and Slack is also illegible as filed electronically. There is no declaration executed by inventor Slack and is required. Only the declaration executed by inventor Galopin is legible and thus, is acceptable. To be acceptable, a clearer copy of the declarations executed by inventors Tigani, Bell and Slack are required or a newly executed declaration should be submitted. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not yet been met.

CONCLUSION

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of Notification of Defective Response (Form PCT/DO/EO/916) in accord with this decision.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

---

[1]MPEP 201.03 states, in pertinent part, :

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. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

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26 FEB 2008

Finnegan, Henderson, Farabow,
Garrett & Dunner LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of
WONG et al.
Application No.: 11/990,162
PCT No.: PCT/US06/29827
Int. Filing Date: 28 July 2006
Priority Date: 29 July 2005
Attorney Docket No.: 09741-0010-00000
For: PHARMACEUTICAL COMPOSITIONS FOR THE PREVENTION AND TREATMENT OF COMPLEX DISEASES AND THEIR DELIVERY BY INSERTABLE MEDICAL DEVICES

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

11 FEB 2009

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

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST
ALEXANDRIA VA 22314

In re Application of HOANG et al. Application No.: 11/990,203 PCT No.: PCT/US06/26739 Int. Filing Date: 11 July 2006 Priority Date: 08 August 2005 Attorney Docket No.:RAA.001 US For: A KIT OF LYOPHILIZED THROMBIN AND LYOPHILIZED FIBRINOGEN USED TO COMPOUND FIBRIN MEMBRANE AND ITS APPLICATION	DECISION ON under 37 CFR 1.497(d)

This is a decision on applicant's Submission of Inventor and Statements of Inventors Named in Error, treated a petition to correct inventorship under 37 CFR 1.497(d) filed on 15 July 2008 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 11 July 2006, applicant filed international application PCT/US06/26739, which identified Kieu Hoang, Zhun Zhang, Thu Ho Meecham, Bixiong Shu, Zhao Xia, and Li Junhui.

On 08 February 2008, applicant filed a Transmittal Letter requesting National stage entry under 35 U.S.C. 371 for international application PCT/US06/26739 along with the basic national fee.

On 15 July 2008, applicant filed a petition under 37 CFR 1.497(d) for correction of inventorship, to delete Zhun Zhang, Thu Ho Meecham, Bixiong Shu, Zhao Xia, and Li Junhui as inventors. In addition to the $130 petition fee, Petitioner provided the statements of the inventors Zhun Zhang, Thu Ho Meecham, Bixiong Shu, Zhao Xia, and Li Junhui in support of the correction of inventorship under 37 CFR 1.497(d). An declaration executed by Kieu Hoang was provided.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being deleted as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

Applicant filed an executed declaration on 15 July 2008 along with the instant petition. Applicant paid the $130 petition fee, provided statements from the inventors being deleted and did not provide the written consent of any assignee. It appears that no assignment was executed. If an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) is required and must be provided immediately. (See 37 CFR 3.73(b)).

With regard to applicant's petition, applicant satisfied the requirements of 37 CFR 1.497(d) and met all of the requirements to delete Zhun Zhang, Thu Ho Meecham, Bixiong Shu, Zhao Xia, and Li Junhui as inventors in the above-identified international application. The declaration is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to delete Zhun Zhang, Thu Ho Meecham, Bixiong Shu, Zhao Xia and Li Junhui as inventors is hereby **GRANTED**.

The declaration executed by Kieu Hoang is acceptable and meets the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Acceptance indicating a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of 15 July 2008.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402

JUL 1 2008

In re Application of	: DECISION ON REQUEST TO
Shigeo FUSHITANI	: PARTICIPATE IN PATENT
Application No. 11/990236	: PROSECUTION HIGHWAY
Filed: February 8, 2008	: PILOT PROGRAM AND PETITION
Attorney Docket No. 10873.2149USWO	: TO MAKE SPECIAL UNDER
	: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 26, 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, 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) (http://dossier1.ipdl.inpit.go.jp/AIPN/odse_top_fwi.ipdl?N0000=7401) 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 claims(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 above is available via the Dossier Access System (DAS) (http://dossier1.ipdl.inpit.go.jp/AIPN/odse_top_fwi.ipdl?N0000=7401), applicant may request the USPTO obtain a copy from the SAD; 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 pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

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

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

Kathryn Gorgos
TQAS TC 1700

United States Patent and Trademark Office

1 8 AUG 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of Takada et al. Application No.: 11/990,266 PCT No.: PCT/JP2006/317606 Int. Filing Date: 06 September 2006 Priority Date: 21 September 2005 Attorney Docket No.: 135603 For: Polyester Resin And Heat And Pressure Resistant Plastic Bottle	DECISION

This is in response to the refund request filed on 09 June 2009.

BACKGROUND

This international application was filed on 06 September 2006, claimed an earlier priority date of 21 September 2005, and designated the U.S. The international Bureau transmitted a copy of the published international application to the USPTO on 29 March 2007. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 March 2008. Applicants filed *inter alia* the basic national fee on 11 February 2008.

On 01 July 2008, applicants filed a declaration.

On 11 July 2008, applicants filed a status inquiry, asserting that the "application entered the National Phase on February 11, 2008. The 35 U.S.C. 371 requirements were completed on February 11, 2008."

On 31 July 2008, a filing receipt and a Notice of Acceptance (Form PCT/DO/EO/903) reflecting a date under 35 U.S.C. 371(c)(1), (2) and (4) of "07/01/2008" were mailed to counsel.

On 06 August 2008, applicants filed a "Request For Correction Of PALM Records."

On 11 August 2008, a letter was mailed to applicants, asserting that applicants were properly charged the surcharge under 37 CFR 1.492(h) because the "Oath received 2-11-08 was not proper, the electronic signature was improper."

On 15 August 2008, a filing receipt was mailed.

On 27 October 2008, another letter was mailed to applicants, in effect asserting again that applicants were properly charged the surcharge under 37 CFR 1.492(h) because of an "Improper electronic signature."

On 30 April 2009, another filing receipt was mailed.

DISCUSSION

Applicants request that the surcharge under 37 CFR 1.492(h) be refunded. Review of the record reveals that applicants filed a declaration under PCT Rule 4.17(iv) during the international phase. Inspection of said declaration reveals that it was signed using S-signatures. These signatures are acceptable, and the declaration itself is accepted for purposes of compliance with 37 CFR 1.497(a) and (b). As such, the surcharge under 37 CFR 1.492(h) was not required, and it is being refunded to counsel's Deposit Account No. 15-0461, as requested.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed on 31 July 2008 is hereby **VACATED** due to the incorrect 35 U.S.C. 371(c)(1), (2) and (4) date shown thereon.

DECISION

The request is **GRANTED** as described above.

This application is being returned to the Office of Patent Application Processing for the preparation and mailing of a new filing receipt and a new Notice of Acceptance (Form PCT/DO/EO/903) showing a date under 35 U.S.C. 371(c)(1), (2) and (4) of **11 February 2008**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

28 JUL 2009

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United States Patent and Trademark Office
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Griffiths, John E.
E.I. Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington DE 19805

In re Application of:
CHIOU, Minshon, J., et al.
U.S. Application No.: 11/990,284
PCT No.: PCT/US2006/031010
International Filing Date: 08 August 2006
Priority Date: 10 August 2005
Atty Docket No.: KB4590USPCT
For: FIBER NETWORK LAYERS AND FLEXIBLE PENETRATION RESISTANT ARTICLES COMPRISING SAME

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed on 16 June 2009 is hereby **GRANTED** as follows:

The present application became abandoned with respect to the United States at midnight on 10 February 2008 based on applicants' failure to pay the U.S. basic national fee prior to the expiration of thirty months from the priority date.[1] The abandonment was confirmed in the "Notification Of Abandonment" (Form PCT/DO/EO/909) mailed 21 May 2009.

The present petition for revival was accompanied by payment of the petition fee and the "required reply" in the form of payment of the U.S. basic national fee. In addition, the petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application with respect to the United States is appropriately granted.

It is noted that applicant's 08 February 2008 submission included an executed declaration in compliance with 37 CFR 1.497.

[1] On 08 February 2008, applicant initiated the present application by filing materials requesting entry into the U.S. national stage for PCT/US2006/031010; however, the submission did not include an acceptable payment of the required basic national fee.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 16 June 2009.

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

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27 JUL 2009

Griffiths, John E.
E.I. Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington DE 19805

In re Application of	:	
CHIOU	:	
U.S. Application No.: 11/990,287	:	DECISION ON PETITION
PCT No.: PCT/US2006/031146	:	
Int. Filing Date: 08 August 2006	:	UNDER 37 CFR 1.137(b)
Priority Date: 10 August 2005	:	
Attorney Docket No.: PB0025USPCT	:	
For: PENETRATION RESISTANT COMPOSITE	:	
AND ARTICLE COMPRISING SAME	:	

The petition to revive under 37 CFR 1.137(b) filed 02 July 2009 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX, NY 10471-0900

In re Application of STRELOW	:	
U.S. Application No.: 11/990,408	:	
PCT Application No.: PCT/EP2006/007184	:	DECISION
Int. Filing Date: 21 July 2006	:	
Priority Date Claimed: 12 August 2005	:	
Attorney Docket No.: 24129	:	
For: COOLANT PUMP FOR ELECTRIC MOTORS	:	

This is in response to applicant's "Petition for Revival Under 37 CFR 1.137(b)" filed 13 February 2008.

BACKGROUND

On 21 July 2006, applicant filed international application PCT/EP2006/007184, which claimed priority of an earlier Germany application filed 12 August 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 22 February 2007. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2008.

International application PCT/EP2006/007184 became abandoned as to the United States for failure to timely pay the basic national fee.

On 13 February 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in filing the required documents from the due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is interpreted as 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 under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 21 July 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 February 2008.

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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28 FEB 2008

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of
KISELIS *et al*
U.S. Application No.: 11/990,415
PCT No.: PCT/CA2006/001139
Int. Filing Date: 17 July 2006
Priority Date: 18 July 2005
Attorney Docket No.: 9261-00018/US/NP
For: CONTROL ARM AND KNUCKLE ASSEMBLY

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 13 February 2008 with the national stage papers is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

However, the declaration filed with the national stage papers is not in compliance with 37 CFR 1.497(a) and (b) as it is only a partial declaration.

The declaration consists of five pages of a four-page declaration, *i.e.*, two Page 3 of 4s. While each inventor need not execute the same oath or declaration, each oath or declaration must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor.

Applicants must submit the complete declaration signed by each co-inventor.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR

11/990,415

1.497(a) and (b) and a surcharge fee is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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2 8 FEB 2008

Timothy B. Kang
8221 Old Courthouse Road
Suite 104
Vienna, VA 22182

In re Application of ODA, Hiromi U.S. Application No. 11/990,495 PCT No.: PCT/JP2006/314000 Int. Filing Date: 13 July 2006 Priority Date: 15 July 2005 Attorney Docket No.: 200408485-04 For: APPARATUS AND METHOD OF DETECTING COMMUNITY-SPECIFIC EXPRESSION	:	DECISION ON PETITION (37 CFR 1.182)

This decision is issued in response to applicant's "Petition Under 37 CFR 1.182 To Change the Filing Status of an Application Inadvertently Filed as a PCT Application to a U.S. National Stage Application under 35 U.S.C. 371" filed 17 January 2008. The $400 petition fee has been submitted.

BACKGROUND

On 13 July 2006, applicant filed international application No. PCT/JP2006/314000, which claimed a priority date of 15 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 January 2008.

On 15 January 2008, applicant attempted to file an application identified as a U.S. national stage application via the Electronic Filing System-Web (EFS-Web) portal. The submission was assigned International application number PCT/US2008/051092.

The materials filed 15 January 2008 included a *Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission (Form PTO-1390)* that identified the application as a U.S. national stage of PCT/JP2006/314000, filed 30 June 2006. However, the data ('radio button') entered by applicant as part of the electronic filing identified the application as an "International Application for filing in the US receiving office." Thus, applicant's 15 January 2008 filing included conflicting instruction that identified the submission as both a U.S. national stage of PCT/JP2006/314000 and an "International Application for filing in the US receiving office."

Based on United States Patent and Trademark Office (USPTO) processing procedures, the application file was initiated in the USPTO PALM system as an

international application based on the information provided by applicant.

On 17 January 2008, applicant filed "Petition Under 37 CFR 1.182 To Change the Filing Status of an Application Inadvertently Filed as a PCT Application to a U.S. National Stage Application under 35 U.S.C. 371."

DISCUSSION

Filing under 35 U.S.C. 371

As noted above, the data provided by applicant incorrectly identified the "type of new application" as an "International Application for filing in the US receiving office" to which the submission was directed. Correction of this error is required before the materials filed 15 January 2008 can be treated as having been directed to the U.S. national stage of international application PCT/JP2006/314000, as would be necessary to avoid abandonment of the international application with respect to the United States.

In the present petition filed 17 January 2008, applicant confirms that the listing of the present application as an "International Application for filing in the US receiving office" was the result of an (typographical) error, and that it was applicant's intent to file a U.S. National Stage Application under 35 U.S.C. 371. It is noted that applicant's 15 January 2008 submission included a Transmittal Letter to the United States Designated Office (DO/EO/US) identifying the application as a U.S. national stage of PCT/JP2006/314000. With the payment of the petition fee required to correct the above error and the statement of clarification, the materials satisfy the requirements for a grantable petition to correct applicant's error and such materials will be treated as having been directed to the U.S. national stage of international application PCT/JP2006/314000.

The materials filed 15 January 2008 have been assigned U.S. application number 11/990,495, and will be treated as the national stage of PCT/JP2006/314000. Application number PCT/US2008/051092 will be discontinued.

Payment of Basic National Fee

Pursuant to applicant's intention, as set forth in the present petition, the present application file will be corrected to indicate that the application is the U.S. national stage of international application PCT/JP2006/314000. However, the application is considered abandoned with respect to the United States for failure to pay the full basic national fee 30 months from the priority date. The transmittal letter filed 15 January 2008 did not include an authorization to charge a valid Deposit Account for such fee. Applicant listed the Deposit Account number as "22879." Accordingly, applicant has failed to pay full basic national fee prior to the expiration of the 30th month deadline.

Recommendation

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137 (b) should not be construed as an indication as to whether or not any such petition will be favorably considered.

CONCLUSION

Applicant's petition under 37 CFR 1.182 to treat the above-identified application as an application under 35 U.S.C. 371 is **GRANTED**.

The present application file will be corrected to identify the application as the U.S. national stage of international application PCT/JP2006/314000. However, the application is **ABANDONED** for failure to enter the national stage and pay the basic national fee with respect to such international application prior to the expiration of thirty months from the priority date.

The materials filed 15 January 2008 have been assigned U.S. application number 11/990,495, and will be treated as the national stage of PCT/JP2006/314000. Application number PCT/US08/51092 will be discontinued.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182" or "Petition under 37 CFR 1.137(b)."

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

2 8 MAR 2008

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Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

In re Application of :
ODA, Hiromi :
U.S. Application No. 11/990,495 : DECISION ON PETITION
PCT No.: PCT/JP2006/314000 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 13 July 2006 :
Priority Date: 15 July 2005 :
Attorney Docket No.: 200408485-04 :
For: APPARATUS AND METHOD OF DETECTING COMMUNITY-SPECIFIC EXPRESSION

The petition to revive under 37 CFR 1.137(b) filed 13 March 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

cc: Timothy B. Kang
Mannava & Kang
11240 Waples Mill Road, Suite #300
Fairfax, VA 22030

22 JAN 2009

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United States Patent and Trademark Office
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www.uspto.gov

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

In re Application of LIANIDOU *et al* U.S. Application No.: 11/990,575 PCT No.: PCT/EP2006/008097 Int. Filing Date: 16 August 2006 Priority Date: 17 August 2005 Attorney Docket No.: 81052US(54558) For: COMPOSITION AND METHOD FOR DETERMINATION OF CK19 EXPRESSION	**DECISION** **UNDER** **37 CAR 1.10(d)**

This decision is in response to the petition under 37 CAR 1.10(d) filed 16 November 2008. No fee is required.

BACKGROUND

Applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 of PCT/EP2006/008097 using Express Mail. The USPTO listed the date of receipt of these documents as 14 February 2008.

On 16 November 2008, applicants filed the instant petition which was accompanied by *inter alia*, a copy of Express Mail label No. EM005397765US and a copy of the USPS Track/Confirm records for Express Mail label No. EM005397765US.

DISCUSSION

Applicants claim that the national stage papers were deposited with the USPS on 15 February 2008. However, a USPS employee erroneously wrote the wrong date on the "Date Accepted" box of the Express Mail label. As a result, the USPTO denoted the papers as received on 14 February 2008 pursuant to 37 CFR 1.10(a).

Applicants then filed the subject petition under 37 CFR 1.10(d) which states:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the Express Mail mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date

the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 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 is considered to be filed promptly. A review of the above-identified international application verifies that the Express Mail mailing label number is listed on the transmittal letter (Form PTO-1390). Concerning item (3), applicants submitted a copy of the USPS Track/Confirm record for Express Mail No. EM005397765US which shows that the item was accepted by the USPS on 15 February 2008 at 4:28 pm in Boston, MA. Further, the Customer Copy of the Express Mail label No. EM005397765US is stamped by the USPS as received on 15 February 2008 despite the fact that the "Date Accepted" box is written as "2 14 08." This evidence is from the USPS and is considered sufficient to satisfy item (3) of 37 CFR 1.10(d)[1].

All requirements of 37 CFR 1.10(d) are satisfied.

CONCLUSION

Applicants' petition to correct the date of receipt of national stage papers pursuant to 37 CFR 1.10(d) is **GRANTED**.

The date of receipt is amended to 15 February 2008.

This application is being forwarded to the National Stage Processing Division of

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[1] Applicants also noted that the Certificate of Express Mailing Under 37 CFR 1.10 in the application records the date of deposit as 15 February 2008.

the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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P.O. Box 1450
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of	:	
WANG	:	
U.S. Application No.: 11/990,577	:	DECISION ON PETITION
PCT No.: PCT/CN2005/001258	:	
Int. Filing Date: 15 August 2005	:	UNDER 37 CFR 1.137(b)
Priority Date: 25 March 2005	:	
Attorney Docket No.: 740-001.003	:	
For: ARG-GLY-ASP (RGD) SEQUENCE	:	
CONTAINING CYCLIC PEPTIDE AND ITS	:	
ACTIVE TARGETING LIPOSOMES	:	

The petition to revive under 37 CFR 1.137(b) filed 24 July 2009 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

In re Application of	:	
KANAMORI, KATSUHIRO, et al.	:	DECISION ON REQUEST TO
Application No. 11/990,589	:	PARTICIPATE IN PATENT
Filed: February 15, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 5077-000267/US/NP	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 31, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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0 2 OCT 2009

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

Dennison Associates
Suite 301
133 Richmond Street West
Toronto Ontario M5H 2L7 CA CANADA

In re Application of	:	
BUKHMAN (Deceased)	:	DECISION ON
Application No.: 11/990,593	:	
PCT No.: PCT/CA06/01350	:	REQUEST
Int. Filing Date: 17 August 2006	:	
Priority Date: 19 August 2005	:	UNDER 37 CFR 1.42
Attorney Docket no.:WH-12719US	:	
For: DRIVE MECHANISM FOR STACKER	:	
LINKAGE	:	

This is a decision on applicant's request under 37 CFR 1.42 along with an executed declaration filed in the United States Patent and Trademark Office (USPTO) on 23 April 2009. Applicant's request for a two month extension of time is granted.

BACKGROUND

On 19 February 2008, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 23 December 2008, a Notification of Missing Requirements was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 23 April 2009, applicant filed an executed declaration identifying Olga Sydorchenko as the legal representative of the deceased inventor Sergiy Bukhman.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal

representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. *37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative.*

The declaration submitted on 23 April 2009 identifies Olga Sydorchenko as the legal representative of the deceased inventor Sergiy Bukhman. However, the declaration fails to state the country of citizenship, residency and mailing address for the legal representative. Petitioner is advised to have the legal representative re-execute a complete copy of the declaration with this information included. The declaration as submitted does not meet the requirements for compliance with 37 CFR 1.497(a) and (b). Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**.

Applicant is required to correct the above-noted defects including the furnishing of a oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

30 DEC 2009

Dennison Associates
Suite 301
133 Richmond Street West
Toronto Ontario M5H 2L7 CA CANADA

In re Application of	:	
BUKHMAN (Deceased)	:	DECISION ON
Application No.: 11/990,593	:	
PCT No.: PCT/CA06/01350	:	REQUEST
Int. Filing Date: 17 August 2006	:	
Priority Date: 19 August 2005	:	UNDER 37 CFR 1.42
Attorney Docket no.:WH-12719US	:	
For: DRIVE MECHANISM FOR STACKER	:	
LINKAGE	:	

This is a decision on applicant's request under 37 CFR 1.42 filed with an executed declaration in the United States Patent and Trademark Office (USPTO) on 27 November 2009.

BACKGROUND

On 19 February 2008, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 23 December 2008, a Notification of Missing Requirements was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 23 April 2009, applicant filed an executed declaration identifying Olga Sydorchenko as the legal representative of the deceased inventor Sergiy Bukhman along with a request for an extension of time. On 02 October 2009, a decision dismissing the request under 37 CFR 1.42 was mailed to applicant.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal

representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative.

The declaration submitted on 27 November 2009 identifies Olga Sydorchenko as the legal representative of the deceased inventor Sergiy Bukhman and states the country of citizenship, residency and mailing address for both the deceased inventor and his legal representative. The declaration as submitted meets the requirements for compliance with 37 CFR 1.497(a) and (b). Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The application will be forward to the United States Designated/Elected Office for further processing in accordance with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 SEP 2009

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Alexandria, VA 22313-1450
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S Warren Hall
DENNISON ASSOCIATES
Suite 301
133 Richmond Street West
Toronto Ontario M5H 2L7 CA
CANADA

In re Application of: SALTSOV, Leon, et al. U.S. Application No.: 11/990,594 PCT No.: PCT/CA2006/001349 International Filing Date: 17 August 2006 Priority Date: 19 August 2005 Attorney's Docket No.: WH-12689US For: BANKNOTE VALIDATOR WITH BANKNOTE STACK RECEIVER	DECISION REGARDING SUBMISSION UNDER 37 CFR 1.42

This decision is issued in response to applicants' submission on 15 June 2009 of a revised declaration executed on behalf of deceased inventor Mykhaylo BAZHENOV by the deceased inventor's legal representative Olga BAZHENOVA, considered herein under 37 CFR 1.42 and 1.497.

BACKGROUND

On 17 August 2006, applicants filed international application PCT/CA2006/001349. The international application claimed a priority date of 19 August 2005, and it designated the United States. On 22 February 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 19 February 2008.

On 19 February 2008, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee

On 11 February 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 16 March 2009, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and processing fee and a

declaration executed by the surviving inventors and on behalf of deceased inventor Mykhaylo BAZHENOV by the deceased inventor's legal representative Olga BAZHENOVA.

On 19 May 2009, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that the declaration filed 16 march 2009 was not acceptable in that it was not properly executed on behalf of the deceased inventor.

On 15 June 2009, applicants filed a response to the Notification Of Defective Response, accompanied by a revised declaration.

DISCUSSION

37 CFR 1.42 states in part:

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

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

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

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the revised declaration filed 25 November 2008 includes the required citizenship, residence, and mailing address information for Olga BAZHENOVA, the person signing the declaration on behalf deceased inventor Mykhaylo BAZHENOVA, and it identifies this person as the "legal representative" of the deceased inventor. The declaration also includes the citizenship of the deceased inventor and all other information required under 37 CFR 1.497. This declaration is therefore properly accepted under 37 CFR 1.42 with respect to the deceased inventor.

It is noted that the declarations filed on 16 March 2009 are acceptable with respect to the surviving inventors.[1]

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Mykhaylo BAZHENOV is **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 15 June 2009.

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

[1] Such declaration was not acceptable on behalf of the deceased inventor because it did not clearly identify the citizenship of both the deceased inventor and the legal representative, as required.

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0 2 JUL 2009

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Dennison Associates
suite 301
133 Richmond Street West
Toronto Ontario M5H 2L7 CA CANADA

In re Application of	:	
SALSTOV, et al.	:	
Application No.: 11/990,597	:	
PCT No.: PCT/CA2006/001346	:	REQUEST FOR STATUS
Int. Filing Date: 17 August 2006	:	
Priority Date: 19 August 2005	:	UNDER 37 CFR 1.42
Attorney Docket No.: WH-12763US	:	
For: BANKNOTE CASSETTE	:	

This decision is in response to applicant's communication filed 24 April 2009 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 17 August 2006, applicant filed international application PCT/CA2006/001346 which claimed a priority date of 19 August 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 February 2007. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 February 2008.

On 19 February 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by payment of the requisite basic national fee.

On 24 April 2009, applicant filed the declaration discussed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The filed declaration is executed by Olga Sydorchenko as legal representative to the estate of deceased joint inventor Sergiy Bukhman. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one of the individuals. In order to comply with 37 CFR 1.497(b), this

information must be provided for both the deceased inventor and the legal representative:

> If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

CONCLUSION

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

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

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

0 4 JAN 2010

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Dennison Associates
Suite 301
133 Richmond Street West
Toronto, Ontario M5H 2L7
CANADA

In re Application of	:	
SALSTOV, et al.	:	DECISION ON RENEWED
Application No.: 11/990,597	:	
PCT No.: PCT/CA2006/001346	:	PETITION UNDER
Int. Filing Date: 17 August 2006	:	
Priority Date: 19 August 2005	:	37 CFR 1.42 AND PETITION
Attorney Docket No.: WH-1276US	:	
For: BANKNOTE CASSETTE	:	UNDER 37 CFR 1.137(b)

This decision is in response to applicant's petition under 37 CFR 1.137(b) and renewed request for status under 37 CFR 1.42 filed 27 November 2009 in the United States Patent and Trademark Office (USPTO). As discussed further below, the application was prematurely abandoned by the USPTO. Therefore a portion of the petition to revive fee will be used to pay the appropriate three-month extension of time fee and the remainder refunded to applicant.

BACKGROUND

On 02 July 2009, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 11 September 2009, applicant was mailed a "Notice of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the decision mailed 02 July 2009.

On 27 November 2009, applicant filed the present response.

DISCUSSION

I. Petition to Revive Under37 CFR 1.137(b)

Applicant is correct that petition and payment of a request for extension of time is not necessary until the proper response is filed. Abandonment therefore was not possible in the present application until 02 February 2010 (2 months from the mail date of the decision plus 5 months extendable time). Therefore, the mailing of the PCT/DO/EO/909 was premature and the petition under 37 CFR 1.137(b) is dismissed as moot. Applicant's petition will be treated as a

petition for a three-month extension of time (from 02 September 2009 to 02 December 2009). The extension of time fee is $1110.00. Therefore, $510 will be refunded to applicant's deposit account 04-0752.

II. Renewed Request For Status Under 37 CFR 1.42

As detailed in the decision mailed 02 July 2009, 37 CFR 1.42 states:

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

A review of the presently filed declaration finds that it is in compliance with 37 CFR 1.497 (a)-(b). It has been executed by the legal representative of the estate of the deceased inventor. In addition, the filed declaration contains the required residence, post office and citizenship information for both the deceased inventor and the legal representative of his estate. Lastly, the two declarations combined contain the information and signatures of the additional joint inventors.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 17 August 2006 and a date of **27 November 2009** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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

1 9 AUG 2008

United States Patent and Trademark Office

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of	:	
Schmidbauer et al.	:	
Application No.: 11//990,626	:	DECISION
PCT No.: PCT/AT2006/000341	:	
Int. Filing Date: 16 August 2006	:	ON
Priority Date: 16 August 2005	:	
Attorney Docket No.: 66376-433-7	:	PETITION
For: Device For Examining Workpieces	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 16 July 2008.

BACKGROUND

This international application was filed on 16 August 2006, claimed an earlier priority date of 16 August 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 22 February 2007. The 30 month time period for paying the basic national fee in the United States expired at midnight on 19 February 2008 (since 16 February 2008 was a Saturday and 18 February 2008 was a holiday). Applicants filed *inter alia* the basic national fee on 19 February 2008.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, the $200.00 petition fee is being charged to Deposit Account no. 04-2223, as authorized by the petition.

Regarding **requirement (2)**, petitioner presents a "Declaration" signed by Michael Babeluk which, taken together with the supporting documentation, adequately demonstrates that Mr. Schmidbauer has refused to execute the declaration within the meaning of 37 CFR 1.47(a).

Regarding **requirement (3)**, the petition provides the last known address of the non-signing inventor. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, inspection of the declaration of inventorship filed on 16 July 2008 reveals that it names the same inventive entity as was nominated in the published international application, and that it was signed by Michael Kretschmer and Gerold Staudinger. On behalf of themselves and the non-signing inventor. Therefore, requirement (4) has been satisfied.

DECISION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an English translation of the international application, the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i).

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

1 9 AUG 2008

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Alexandria, VA 22313-1450
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Manfred Schmidbauer
Franz-Peyerl-Strasse 3
5020 Salzburg
AUSTRIA

In re Application of	:
Schmidbauer et al.	:
Application No.: 11//990,626	:
PCT No.: PCT/AT2006/000341	:
Int. Filing Date: 16 August 2006	:
Priority Date: 16 August 2005	:
Attorney Docket No.: 66376-433-7	:
For: Device For Examining Workpieces	:

Dear Mr. Schmidbauer:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

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

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

MAILED
JUN 09 2010
OFFICE OF PETITIONS

Applicant: Olsson et al.
Appl. No.: 11/990,634
International Filing Date: August 17, 2006
Title: BORON COMPOUNDS USEFUL IN BNCT
Attorney Docket: 0104-0657PUS1
Pub. No.: US 2009/0227539 A1
Pub. Date: September 10, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 21, 2009, for the above-identified application. Applicant requests correction of a formula that was presented in the application as a single part, but printed as separate parts.

The request is DISMISSED.

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

The errors noted by requester in the publication may be Office errors, but they are not material Office errors under 37 CFR 1.221. The errors due to faulty optical character recognition and it is not clear that the formulas are supposed to be together. The errors are 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

[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).

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" 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

03 MAR 2008

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

In re Application of LATIES et al. Application No.: 11/990,703 PCT No.: PCTUS06/24063 Int. Filing: 21 June 2006 Priority Date: 22 June 2005 Attorney Docket No.: P-8035-US For: NEUROPROTECTION OF RETINAL GANGLION CELLS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 20 February 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $155 has now been provided. The required petition fee of $770 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

17 JUL 2008

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COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576-1696

In re Aplication of	DECISION ON
SELIG et al	
PCT No.: PCT/DE2006/001441	
Application No: 11/990,721	
Int. Filing Date: 18 August 2006	PETITION UNDER
Priority Date: 20 August 2005	
Attorney's Docket No.: SELIG ET AL - PCT	
For: FRESNEL SOLAR COLLECTOR	
ARRANGEMENT	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a) FOR APPLICATION TO BE ... IN APPLICATION FOR PATENT" filed on 22 May 2008. The petition fee of 200.00 has been paid by check.

BACKGROUND

On 18 August 2006, petitioner filed international application PCT/DE2006/001441, which claimed priority to an earlier application filed 20 August 2005. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 20 February 2008.

On 20 February 2008, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration accompanied the above papers.

On 22 May 2008, petitioner filed the present petition, a declaration in support of filing on behalf of omitted inventor Johannes Gottlieb accompanied, inter alia, an executed Declaration without the signatures of Johannes Gottlieb.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration

by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1) and (3) of 37 CFR 1.47(a) but not items (2) and (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(g).

Regarding requirement (2), in this case, it has not been sufficiently demonstrated that a copy of the application papers were presented to the non-signing inventor, Johannes Gottlieb. Petitioner states that the application papers were sent to him but petitioner's cover fax of 14 April 2008 only refers to the documents for signing mailed on 11-03-2008 and there is no reference to the application papers (specification, including claims, drawings, and oath or declaration). In addition, petitioner has not provided a copy of the cover letter that was sent with the papers with the mailing on 11-03-2008.

Moreover, it is not clear from the petition that it was Johanna Hechier who performed the mailing on 11-03-2008, and has first hand knowledge of those facts as required by MPEP Section 409.03(d). If Johanna Hechier was not the person who performed those actions, petitioner will need to submit statements, with specific facts on the actions referred to by mailing of the application papers by persons who have first-hand knowledge of such facts.

Although documentary evidence to support this assertion has been provided such as the postal receipt, the document is in German and no English translation has been provided. Consequently, it is unclear what is said in that document.

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor.

With respect to requirement 4, applicant has provided a defective declaration because there are alterations on it - lines across the information on it. Any alternation made after the signing of an oath or declaration must be supported by a supplemental oath or declaration under §1.67. Note 37 CFR §1.52.

Consequently, the current record does not sufficiently establish Mr. GOTTLEIB's refusal to join in the application because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

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

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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1077 Northern Boulevard
Roslyn, New York 11576-1696

In re Aplication of	DECISION ON
SELIG et al	
Application No: 11/990,721	
PCT No.: PCT/DE2006/001441	
Int. Filing Date: 18 August 2006	PETITION UNDER
Priority Date: 20 August 2005	
Attorney's Docket No.: SELIG ET AL - PCT	
For: FRESNEL SOLAR COLLECTOR	
ARRANGEMENT	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 08 September 2008.

BACKGROUND

In a decision from this Office on 17 July 2008, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that items (2) and (4) under 37 CFR 1.47(a) were not met.

On 08 September 2008, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 17 July 2008. Petitioner has submitted a new declaration and re-summarized the process to get the nonsigning inventor, Gottlieb, to sign the required papers.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of has satisfied item (4) but not item (2) of 37 CFR 1.47(a).

Regarding item (2), it still has not been sufficiently demonstrated that a copy of the application papers were presented to the non-signing inventor, Johannes Gottlieb. Johanna Hechler's statement states that on August 14, 2008 a letter was sent to Mr. Gottlieb to his last known address and it refers to the application papers. A translated copy of this latter was provided. A review of this letter, however, shows that it unclear what patent application papers were provided to Mr. Gottlieb because it is vague with respect to referring to the application papers. It only states "patent application for your information," but nowhere is there a reference to either international application PCT/DE2006/001441 or national stage application 11/990,721. As such, it unclear what was presented to Mr. Gottlieb.

Regarding item (4), petitioner has now provided a properly executed declaration.

Consequently, the current record does not sufficiently establish Mr. GOTTLEIB's refusal to join in the application because petitioner has failed to show that a *bona fide* attempt was made to deliver the complete application to her and that she refused to sign the required papers.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

2 1 APR 2009

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576-1696

In re Aplication of	DECISION ON RENEWED
SELIG et al	
Application No: 11/990,721	
PCT No.: PCT/DE2006/001441	
Int. Filing Date: 18 August 2006	PETITION UNDER
Priority Date: 20 August 2005	
Attorney's Docket No.: SELIG ET AL - PCT	
For: FRESNEL SOLAR COLLECTOR	
ARRANGEMENT	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 06 January 2009.

BACKGROUND

In a decision from this Office on 14 November 2008, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that item (2) had not been satisfied.

On 06 January 2009, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 14 November 2008 with respect to accepting the above application without the signature of inventor Johannes Gottlieb.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 06 January 2009 has satisfied item 2 under 37 CFR 1.47(a). A statement been provided by Ms. Johanna Hechler, who has first-hand knowledge of the facts of the previous petition, outlining the steps she took to mail the application papers to the non-signing inventor Mr. Gottlieb on November 26, 2008, and delivered to him on November 28, 2008. Mr. Gottlieb has not returned the required documents signed. Also, the cover letter mailed to him has been included in the petition.

Consequently, at this time it can be concluded that Mr. Gottlieb has refused to sign the documents.

Petitioner has now satisfied item (2) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 May 2008.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-6312
Facsimile: (571) 273-0459

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P.O BOX 1450
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Mr. Johannes GOTTLIEB
Bergwaldstrasse 26, 76227
Karlsruche, Germany

In re Aplication of
SELIG et al
Application No: 11/990,721
PCT No.: PCT/DE2006/001441
Int. Filing Date: 18 August 2006
Priority Date: 20 August 2005
Attorney's Docket No.: SELIG ET AL - PCT
For: FRESNEL SOLAR COLLECTOR ARRANGEMENT

Dear: Mr. Gottlieb

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576-1696

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Washington, D.C. 20231
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
FISHER et al.	:	DECISION ON PETITION
Serial No.: 11/990,743	:	
PCT No.: PCT/US06/33361	:	UNDER 37 CFR §§1.47(a)
Int. Filing Date: 25 August 2006	:	
Priority Date: 25 August 2005	:	
Atty Docket No.: 3519-0146PUS2	:	
For: USE OF SODIUM CHANNEL BLOCKERS: FOR THE TREATMENT OF VISCERAL PAIN OR PAIN CAUSED BY CANCER TREATMENT	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.47(a)" filed 26 May 2009 to accept the application without the signature of joint inventor Edge Renfeng Wang. Petitioner requests a one month extension of time, which is granted. This is also responsive to applicant's petition entitled "REQUEST FOR REFUND" filed on 26 June 2009.

BACKGROUND

On 21 February 2008, applicant filed a Transmittal Letter requesting national stage entry for international application PCT/US06/33361 along with the basic national fee.

On 27 February 2009, a Notification of Missing Requirements was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required. The notification set a two month time period within which to reply, with extensions of time available pursuant to 37 CFR 1.136(a).

On 26 May 2009, applicant filed a petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Edge Renfeng Wang.

DISCUSSION

Petition under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1) is satisfied by the payment of the $200 petition fee. The last known address of the nonsigning inventor was provided, satisfying Item (3) above. Item (4) is satisfied by the submission of declarations executed by the joint inventors on their behalf and on behalf of the nonsigning inventor Edge Renfeng Wang.

With respect to Item (2) above, Petitioner presented the first hand statement of facts of Lesley Rapaport, patent attorney, regarding the presentation of a complete copy of the above referenced application to the nonsigning inventor. A copy of the correspondence sent to the nonsigning inventor via Federal Express was attached. The evidence presented is sufficient to show that Edge Renfeng Wang was presented with and received a complete copy of the application papers including a declaration as there is evidence that Mr. Wang signed for and received these papers. The nonsigning inventor has not responded to this communication. Thus, it can be concluded that Mr. Wang refuses to sign the application papers. Item (2) is satisfied.

The requirements of 37 CFR 1.47(a) are satisfied. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

Request for Refund

A review of the finance records reveals that applicant paid the one month extension of time fee in the amount of $130 on 26 May 2009. Since the small entity statement, filed on 26 June 2009, is deemed to meet the requirements of 37 CFR 1.27, a refund of $65 pursuant to 37 CFR 1.28 (a) and 37 CFR 1.26 is in order and has been credited to applicant's deposit account No. 06-1050. All other fees will be charged to applicant's deposit account per his authorization, including the $65 surcharge for filing the declaration after the thirty month period and the $200 petition fee.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**. Petitioner's request for small entity is **GRANTED**.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 26 May 2009. The application has an international filing date of 25 August 2006 under 35 U.S.C. 363, and a date of 26 May 2009 under 35 U.S.C. 371(c).

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Fax: (571) 273-0459

20 JUL 2009

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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EDGE RENFENG WANG
18886 SYDNEY CIRCLE
CASTRO VALLEY, CA 94546

In re Application of :
FISHER et al. :
Serial No.: 11/990,743 :
PCT No.: PCT/US06/33361 :
Int. Filing Date: 25 August 2006 :
Priority Date: 25 August 2005 :
Atty Docket No.: 3519-0146PUS2 :
For: USE OF SODIUM CHANNEL BLOCKERS:
FOR THE TREATMENT OF VISCERAL PAIN OR
PAIN CAUSED BY CANCER TREATMENT :

Dear Mr. Wang:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

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

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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P.O. Box 1450
Alexandria, VA 22313-1450
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Fish and Richardson, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of	:	
FISHER, et al.	:	
U.S. Application No.: 11/990,757	:	DECISION ON PETITION
PCT No.: PCT/US2006/033362	:	
Int. Filing Date: 25 August 2006	:	UNDER 37 CFR 1.47(a)
Priority Date: 25 August 2005	:	
Attorney Docket No.: 3519-0145PUS2	:	
For: USE OF SODIUM CHANNEL BLOCKERS FOR	:	
THE MANAGEMENT OF MUSCULO-	:	
SKELETAL PAIN	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47" filed 02 September 2009 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 August 2006, applicant filed international application PCT/US2006/033362, which claimed a priority date of 25 August 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 25 February 2008.

On 21 February 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; a first preliminary amendment; an Application Data Sheet and an Information Disclosure Statement.

On 20 July 2009, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 02 September 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing

inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied all four items.

Regarding item (1), applicant has provided payment of $200.00 petition fee.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

Applicant has included exhibits which show that the non-signing inventor was mailed a complete set of application papers. Applicant has included mail receipts which show that the inventor personally signed for the paper. Given the proof of receipt of the papers and non-response, the inventor's silence will be considered a refusal for the purposes of proceeding pursuant to 37 CFR 1.47(a).

Regarding item (3), applicant has provided the last known address of the non-signing inventor.

As to item (4), applicant has filed a compliant declaration of the inventors executed by the remaining inventors on their own behalf and on behalf of the non-signing inventor.

Accordingly, it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 25 August 2006 under 35 U.S.C. 363, and will be given a date of **02 September 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

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2 2 SEP 2009

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mr. Edge Renfeng Wang
18886 Sydney Circle
Castro Valley, CA 94546

In re Application of
FISHER, et al.
U.S. Application No.: 11/990,757
PCT No.: PCT/US2006/033362
Int. Filing Date: 25 August 2006
Priority Date: 25 August 2005
Attorney Docket No.: 3519-0145PUS2
For: USE OF SODIUM CHANNEL BLOCKERS FOR THE MANAGEMENT OF MUSCULO-SKELETAL PAIN

Dear Mr. Wang:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Fish and Richardson, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: Abel Franco Garcia	: DECISION ON REQUEST FOR
Patent Number	: 7656361	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/990,866	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **145** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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CONNORS ASSOCIATES
1600 DOVE ST
SUITE 220
NEWPORT BEACH, CA 92660

In re Application of WHITE et al	:	
U.S. Application No.: 11/990,908	:	
PCT Application No.: PCT/IB2006/002288	:	
Int. Filing Date: 23 August 2006	:	DECISION
Priority Date Claimed: 24 August 2005	:	
Attorney Docket No.: 9834	:	
For: BOOK SPREAD IDENTIFICATION	:	
ARRANGEMENT FOR A BOARD BOOK	:	

This is in response to applicant's correspondence filed 28 August 2009, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 August 2006, applicant filed international application PCT/IB2006/002288, which claimed priority of an earlier United States application filed 24 August 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 01 March 2007. The thirty-month period for paying the basic national fee in the United States expired on 25 February 2008.

On 22 February 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 23 June 2009, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 August 2009, applicant filed an executed declaration along with the present petition under 37 CFR 1.181.

DISCUSSION

The fourth and fifth inventors are listed in the declaration as "Xiaojun Zhang" and "Rong Zhang", respectively, but are listed in the published international application as "Eric Zhang" and "Ryan Zhang", respectively.

MPEP 1893.01(e) states in relevant part,

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

The present petition states that the fourth and fifth inventors remain the same but that the spellings of their given names have been corrected to their Chinese names. Applicant's explanation for the discrepancy is accepted and deemed a proper notification to the Office under MPEP 1893.01(e).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 August 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 28 August 2009.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

18 FEB 2010

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

CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON DC 20001-4413

In re Application of: GARNER, Colin, Peter, et al. U.S. Application No.: 11/990,914 PCT No.: PCT/GB2006/003114 International Filing Date: 22 August 2006 Priority Date: 25 August 2005 Atty Dkt No.: HERRA12-82636 For: AUTOSELECTIVE REGERNERATING PARTICULAR FILTER	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Request For Correction Of Inventorship Under 37 CFR §§ 1.41(a)(4) and 1.497(d)" filed 30 November 2009. Applicants have paid the required $130 processing fee.

BACKGROUND

On 22 August 2006, applicants filed international application PCT/GB2006/003114. The application claimed a priority date of 25 August 2005, and it designated the United States. On 01 march 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 February 2008. The published international application identified one applicant/inventor for the U.S.: Colin Peter GARNER.

On 28 February 2008, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 02 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 02 September 2009, applicants filed a response to the Notification of Missing Requirements that included payment of the required surcharge and a declaration executed by the inventor of record and an additional inventor, John Ernest HARRY.

On 30 October 2009, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) stating that the declaration filed on 02 September 2009 was not acceptable based on the inclusion of the second inventor.

On 30 November 2009, applicants filed the "Request For Correction Of Inventorship Under 37 CFR §§ 1.41(a)(4) and 1.497(d)" considered herein. The submission requests that John Ernest HARRY be added as an inventor of record, so as to permit acceptance of the previously submitted declaration.

DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

The declaration filed by applicants on 02 September 2009 names an inventive entity different than that set forth in the international application. Specifically, John Ernest HARRY has been added as an inventor. Accordingly, applicants must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

The present submission includes the required statement of non-deceptive intent from the person to be added as an inventor, as well as the required processing fee. Requirements (A) and (B) are therefore satisfied. In addition, applicants have submitted the consent of the assignee to the requested change in inventorship, and such consent has been provided in compliance with 37 CFR 3.73(b). Requirement (C) is therefore also satisfied.

Based on the above, applicants have satisfied the requirements of a grantable request to correct the inventors of record under 37 CFR 1.497(d).

CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**. The inventorship of record herein is corrected to add John Ernest HARRY as an inventor of record.

Based on the correction of inventorship, the declaration filed on 02 September 2009 is now acceptable in compliance with 37 CFR 1.497(a) and (b).

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 September 2009.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

30 DEC 2009

Commissioner for Patents
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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

In re Application of: AMBERG, et al.	:	
U.S. Application No.: 11/990,937	:	DECISION REGARDING
PCT No.: PCT/EP2006/008279	:	SUBMISSION UNDER
International Filing Date: 23 August 2006	:	37 CFR 1.42
Priority Date: 24 August 2005	:	
Attorney Docket No.: ABB1001P02141US	:	
For: HETARYL-SUBSTITUTED	:	
GUANIDINE COMPOUNDS AND	:	
USE THEREOF AS BINDING	:	
PARTNERS FOR 5-HT5-	:	
RECEPTORS	:	

This communication is issued in response to applicants' submission on 23 November 2009 of a declaration executed on behalf of deceased inventor Wolfgang Wernet by his legal representative Alfred Hahn, which has been treated as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 23 August 2006, applicants filed international application PCT/EP2006/008279. The application claimed a priority date of 24 August 2005 and designated the United States. On 01 March 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 24 February 2008.

On 25 February 2008, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an English translation of the international application. (24 February 2008 being a Sunday, payment of the full, U.S. basic national fee was timely).

On 21 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 23 November 2009, applicants filed a response to the Notification of Missing Requirements that included payment of the required surcharge; a petition for a two-month

extension if time and a declaration executed by the surviving inventors and on behalf of deceased inventor Wolfgang Wernet by his legal representative Alfred Hahn. This declaration is considered below under 37 CFR 1.42 and 1.497.

DISCUSSION

37 CFR 1.42 states in part:

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

37 CFR 1.497(b) (2) states:

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

An examination of the filed declaration finds it to be in compliance with 37 CFR 1.497(b)(2), in that the declaration provides the citizenship, mailing address, and residence information for both the legal representative **and** the name and citizenship of the deceased inventor.

However, the declaration filed 23 November 2009 appears to be a compilation of four separately executed declarations, and as such is not acceptable under 37 CFR 1.497. See MPEP § 201.03(II) (B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." As an example, included in the 17 pages of declarations is a three page declaration signed by Francisco Javier Garcia-Ladona which only lists himself, Udo Lange and Charles W. Hutchins as inventors. Thus, the declaration does not comply with 37 CFR 1.497(a)(3).

Because the filed declaration appears to be a compilation of multiple declarations, the declaration cannot be accepted under 37 CFR 1.497.

CONCLUSION

The 03 April 2006 submission under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include an oath or declaration executed on behalf of the deceased inventor by his legal representative and containing all the information required under 37 CFR 1.497, including, as discussed above, the citizenship, residence, and mailing address of the legal representative and the name and citizenship of the deceased inventor. Applicants must also provide complete copies of the declarations executed by the surviving inventors (rather than the compilation filed 23 November 2009).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

2 3 MAR 2010

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

In re Application of	:	
AMBERG, et al.	:	
Application No.: 11/990,937	:	
PCT No.: PCT/EP2006/008279	:	REQUEST FOR STATUS
Int. Filing Date: 23 August 2006	:	
Priority Date: 24 August 2005	:	UNDER 37 CFR 1.42
Attorney Docket No.: ABB1001P02141US	:	
For: HETARYL-SUBSTITUTED GUANIDINE COMPOUNDS AND USE THEREOF AS BINDING PARTNERS FOR 5-HT5-RECEPTORS	:	

In a decision mailed by this Office on 30 December 2009, the declaration filed by applicant on behalf of deceased inventor Wolfgang Wernet was dismissed for failure to provide a compliant oath or declaration under 37 CFR 1.497.

On 23 February 2010, applicant filed a response to the previous decision that was accompanied by a revised declaration. The declaration submitted on 23 February 2010 identifies the deceased inventor and states the deceased inventor's country of citizenship and residence, is signed by Alfred Hahn as the legal representative, states his/her relationship to the deceased (i.e., Legal Representative), provides the Legal Representative's country of citizenship and residency and lists all of the joint inventors on the application. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is GRANTED.

The application has an international filing date of 23 August 2006 under 35 U.S.C. 363 and will be given a date of **23 February 2010** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of	:	
KITANAKA, HIDETOSHI	:	DECISION ON REQUEST TO
Application No. 11/990,944	:	PARTICIPATE IN PATENT
Filed: February 25, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 1033318-000097	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed September 19, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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06 MAR 2008

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

In re Application of	:	
SCHODROWSKI, et al.	:	
Application No.: 11/990,947	:	
PCT No.: PCT/EP06/07438	:	DECISION ON PETITION
Int. Filing Date: 27 July 2006	:	
Priority Date: 27 July 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 037068-59943US	:	
For: COMBINED SERVICE BRAKE AND SPRING	:	
TYPE BRAKE CYLINDER HAVING	:	
INTERNAL VENTILATION	:	

The petition to revive under 37 CFR 1.137(b) filed 25 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventors and payment of the processing fee for filing an English translation of the international application as filed after thirty months from the priority date is required.

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

1 2 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUARLES & BRADY, LLP
411 E. Wisconsin Ave.
Milwaukee, WI 53202

In re Application of: WOODCOCK, Derek, Alan, et al. U.S. Application No.: 11/990,954 PCT No.: PCT/GB2006/000141 International Filing Date: 16 January 2006 Priority Date: 14 January 2005 Atty Docket No.: 129180.00003 For: APPARATUS AND METHODS FOR PROVIDING DRY POWDER MEDICAMENT FOR INHALATION	DECISION ON PETITION (37 CFR 1.137(b))

The petition for revival under 37 CFR 1.137(b) filed 25 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

The above-captioned application became abandoned with respect to the U.S. at midnight on 14 July 2007 based on applicant's failure to enter the U.S. national stage and pay the basic national fee prior to the expiration of thirty months from the priority date.

The present petition for revival includes payment of the required petition fee and the "required reply" in the form of a request for entry into the U.S. national stage and payment of the basic national fee. In addition, the present petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application is granted with respect to the U.S.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905). It is noted that applicant has not submitted an executed declaration in compliance with 37 CFR 1.497.

nee n

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	
Koji NAGAMIZU ET AL.	:	**Mail Stop: PCT**
Serial No. 11/990,983	:	Attorney Docket No. 2008_0297A
Filed February 26, 2008	:	

METHOD AND FACILITY FOR DISPOSING WET SLUDGE
[Corresponding to PCT/JP2005/015531 Filed August 26, 2005]

NOTIFICATION OF CORRECTION OF INVENTOR'S NAME

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

Sir:

Please note that the name of the sixth inventor, Masafumi ITO on the attached Declaration and Power of Attorney are correct.

The unexecuted Declaration filed on February 26, 2008, however incorrectly listed the sixth inventor's first given name as "Akifumi". The correct spelling of the sixth inventor's first given name is "Masafumi".

Therefore, it is respectfully requested that all PTO records be updated to reflect the correct sixth inventor's first given name.

Respectfully submitted,

Koji NAGAMIZU ET AL.

By _____
Jeffrey R. Filipek
Registration No. 41,471
Attorney for Applicants

JRF/kjf
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
May 8, 2008

THE COMMISIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

Attachment "F"

2 2 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of NAGAMIZU et al. Application No.: 11/990,983 PCT No.: PCT/JP05/15531 Int. Filing Date: 26 August 2005 Priority Date: None Attorney Docket No.:2008_0297A For: METHOD AND FACILITY FOR DISPOSING WET SLUDGE	DECISION ON DECLARATION

This is a decision on applicants' "Notification of Correction of Inventor's Name", filed on 08 May 2008 in the United States Patent and Trademark Office (USPTO), requesting correction of the sixth inventor's name in the above reference application.

BACKGROUND

On 26 February 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 08 May 2008, applicant filed the instant Notification requesting correction of the sixth inventor's given name to "Masafumi" Iko. The published international application indicated the sixth inventor's name as "Akifumi" Ito.

DISCUSSION

Applicant filed a declaration, identifying the international application and listing Masafumi Iko as the sixth inventor. Akifumi Ito was listed as the sixth inventor in the published international application. Applicant did not provide Form PCT/IB/306 correcting the name of the co-inventor. Applicant contends that the error in the sixth inventor's name is a spelling error.

A review of the application file reveals that the declaration is unacceptable for two reasons. The given name of the applicant as listed on the published international application is "Akifumi Ito". The declaration, filed on 08 May 2008, is signed by "Masafumi Iko". The executed declaration is not in compliance with 37 CFR 1.497(a) and (b) as the declaration does not name the inventive entity identified in the published international application. Thus, the declaration does not satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

It does not appear that applicant filed a request under PCT Rule 92*bis* to change the name of the inventor as no Notification of the Recording of a Change (Form PCT/IB/306) has been submitted which indicates that the name change was accepted. Should applicant wish to correct

the sixth inventor's name to "Masafumi" Iko, a petition under 37 CFR 1.182 is required. See MPEP §605.04(c).

Secondly, the declaration contains three signature pages. It appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not yet been met and the declaration is unacceptable as filed.

CONCLUSION

The declaration of inventors submitted by applicants on 08 May 2008 is not in compliance with 37 CFR 1.497(a) and (b) and is unacceptable for the reasons set forth above.

A petition under 37 CFR 1.182 is required and a declaration where all inventors have signed or separate complete declarations. The application will be held in the PCT Legal Office to await applicant's further reply.

Applicant must respond within ONE (1) MONTH from the mail date of this decision.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

1 1 AUG 2009

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of NAGAMIZU et al. Application No.: 11/990,983 PCT No.: PCT/JP05/15531 Int. Filing Date: 26 August 2005 Priority Date: None Attorney Docket No.:2008_0297A For: METHOD AND FACILITY FOR DISPOSING WET SLUDGE	DECISION ON DECLARATION

This is a decision on applicants' "Reply to Decision on Response of January 22, 2009", filed on 12 March 2009 in the United States Patent and Trademark Office (USPTO), requesting correction of the sixth inventor's name in the above reference application.

BACKGROUND

On 26 February 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 08 May 2008, applicant filed a declaration. On 22 January 2009, a decision on the submission was mailed to applicant. On 12 March 2009, applicant filed the instant response requesting correction of the sixth inventor's given name to "Masafumi" Iko indicating that the published international application incorrectly translated the sixth inventor's name as "Akifumi" Ito.

DISCUSSION

Where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 is not required. In such case, the Office should simply be notified of the error. A new declaration is not required. *See* MPEP 1893.01(e). Applicant notified the Office that the correct inventor's name is Masasumi Ito as indicated in the declaration filed, rather than Akifumi Ito, as incorrectly indicated in the international application as the result of a transliteration error. Applicant's explanation of the correction of inventor Masasumi Ito's name is accepted and noted for the record.

Applicant also submitted complete copies of the declaration as executed by the inventors, satisfying the requirements of 37 CFR 1.497(a) and (b). The declarations are now acceptable.

CONCLUSION

For the reasons above, the Request is **GRANTED**. No petition fee is required.

The declarations were executed by all inventors and satisfy the requirements of 37 CFR 1.497 (a) and (b). The declaration is acceptable as now filed.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 12 March 2009.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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25 MAR 2008

Richard H. Tushin
1300 I Street, N.W., Third Floor West
Washington, DC 20005-3353

In re Application of	:	DECISION ON
PYYKKO, Konstantinos	:	
Application No.: 11/991,001	:	
PCT No.: PCT/SE2006/050258	:	
Int. Filing Date: 13 July 2006	:	PETITION UNDER
Priority Date: 13 July 2005	:	
Attorney's Docket No.: 66352-056-7	:	
For: FOUR DIGITAL INFORMATION ADAPTED	:	
MEMORY ARRANGEMENT	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition Under 37 CFR 1.137(b)," filed on 26 February 2008.

BACKGROUND

On 13 July 2006, this international application was filed, claiming an earliest priority date of 13 July 2005.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 January 2008. This international application became abandoned with respect to the United States at midnight on 13 January 2008 for failure to pay the required basic national fee.

On 26 February 2008, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Masahiro Imanishi	: DECISION ON REQUEST FOR
Patent Number	: 7641996	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/991,012	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/991,099	02/27/2008	Kazunori Miyazawa	81215(71719)	4130

7590 06/22/2009
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

EXAMINER

ART UNIT	PAPER NUMBER
2431	

MAIL DATE	DELIVERY MODE
06/22/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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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26 FEB 2010

RENNER KENNER GRIEVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON OH 44308

In re Application of	:	
WER	:	
U.S. Application No.: 11/991,117	:	DECISION ON PETITION
PCT No.: PCT/GB2006/050264	:	
Int. Filing Date: 30 August 2006	:	UNDER 37 CFR 1.181
Priority Date: 31 August 2005	:	
Attorney Docket No.: GIL.P.US0051	:	
For: ABDOMINAL MUSCLE TRAINING DEVICE	:	

This decision is in response to applicant's "REQUEST TO HAVE PCT/IPEA/409 ANNEXES ENTERED INTO NATIONAL PHASE APPLICATION NO. 11/991,117" filed 03 December 2009 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 30 August 2006, applicant filed international application PCT/GB2006/050264 which claimed priority of an earlier application filed 31 August 2005. A copy of the international application was communicated to the U.S. from the International Bureau (IB) on 08 March 2007. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 February 2008.

On 27 February 2008, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 05 August 2009, applicant was mailed a "Notice of Acceptance" (Form PCT/DO/EO/903) and official filing receipt. The Form PCT/DO/EO/903 noted that, "Annexes have not been entered because THE PCT/IPEA/409 DOES NOT CANCEL CLAIMS 15 AND 16."

On 03 December 2009, applicant filed the petition considered herein.

DISCUSSION

Applicant present seeks the entry of the annexes from the Form PCT/IPEA/409 entered into the present U.S. National stage application. Applicant is advised that the USPTO first notified applicant that the annexes would not be entered on 05 August 2009. Applicant did not seek remedy to this notice until the present filing on 03 December 2009 nearly four months after notice. Applicant's request is not timely and therefore cannot be granted.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web 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.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/991,117	02/27/2008	Ross John Weir	GIL.P.US0051	4664

26360 7590 03/10/2010
RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

EXAMINER
BAKER, LORI LYNN

ART UNIT	PAPER NUMBER
3764	

MAIL DATE	DELIVERY MODE
03/10/2010	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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RENNER KENNER GREIVE BOBAK TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON OH 44308

In re Application of: WEIR, ROSS JOHN et al Serial No. 11/991,117 Filed: Feb. 27, 2008 Docket: GIL.P.US0051 Title: ABDOMINAL MUSCLE TRAINING DEVICE	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed December 3, 2009 under 37 CFR 1.181 requesting a new office action examining correct claims as filed in the preliminary amendment of February 27, 2009.

The petition is **granted.**

It is noted that the preliminary amendment of February 27, 2009 was overlooked. The examiner has been requested to consider the preliminary amendment and issue a new Office action.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856 or Marc Jimenez, Training Quality Assurance Specialist, at (571)-272-4530.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

MAILED

APR 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Knochel et al.	:	
Application No. 11/991,131	:	ON PETITION
Filed: April 2, 2009	:	
Attorney Docket No. 1406/514	:	

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.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

15 JUL 2010

Commissioner for Patents
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HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON CT 06484-6212

In re Application of:	:	
NIKKANEN, Jarno	:	DECISION ON PETITION
U.S. Application No.: 11/991,194	:	
PCT No.: PCT/IB2006/052971	:	
International Filing Date: 28 August 2006	:	
Priority Date: 30 August 2005	:	
Atty Docket No.: 893A.0014.U1(US)	:	
For: IMAGE PROCESSING DEVICE WITH AUTOMATIC WHITE BALANCE	:	

This decision is issued in response to the "Petition To Commission (37 CFR 1.181)" filed 28 September 2009. No petition fee is required.

BACKGROUND

On 28 August 2006, applicant filed international application PCT/IB2006/052971. The international application claimed a priority date of 30 August 2005, and it designated the United States. On 08 March 2007, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 28 February 2008.

The international application as filed and published included 24 claims (listed on pages 30-34).

On 19 December 2007, an "International Preliminary Report on Patentability (Chapter II of the Patent Cooperation Treaty)" (Form PCT/IPEA/409) was issued by the IPEA/SE (hereinafter "IPRP"). The IPRP was issued with 8 sheets of annexes, including amended pages 30-35 (containing claims numbered 1-21).

On 28 February 2008, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and payment of the $50 fee for inclusion of one additional claim in excess of twenty. The Transmittal Letter included the authorization to charge Deposit Account No. 50-1924 for required fees.

In July 2009, applicants were charged an additional fee for inclusion of additional claims in excess of twenty. The fee, which was calculated based on the original 24 claims contained in

the published international application, required payment of an additional $150 for inclusion of three claims beyond the 21 paid for by applicant (it appears that this $150 fee was mistakenly charged to applicant's Deposit Account twice, for a total of $300).

Applicant subsequently requested a refund of the $300 in additional fees charged. In correspondence mailed 10 August 2009, the USPTO dismissed the refund request, indicating that the annexes to the IPRP had not been entered because they were not a page for page substitution of the original claims. In correspondence mailed 03 September 2009, the USPTO partially granted the refund request. Specifically, one of the two duplicative $150 charges was credited to applicant's Deposit Account; however, the USPTO retained $150 as the fee required for inclusion of three additional claims beyond the 21 paid for by applicant.

On 14 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 20 July 2009, applicants filed a response to the Notification Of Missing Requirements, including payment of the required surcharge and an executed declaration.

On 26 August 2009, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c) were satisfied as of 03 August 2009.

On 28 August 2009, applicant filed the "Petition To Commission (37 CFR 1.181)" considered herein.

DISCUSSION

The published international application contained 24 claims, set forth on pages 30-34. The application was amended during Chapter II of the international phase, and the amended portions of the application are contained in the annexes to the IPRP issued 19 December 2007. The annexes to the IPRP include an amended set of 21 claims filed 12 December 2007, set forth on pages 30-35. However, Box No. 1(3) of the IPRP does not expressly indicate that original claims 22-24 were cancelled by applicant's amendment. Because the IPRP did not expressly indicate that claims 22-24 had been cancelled, the DO/EO/US did not enter the annexes to the IPRP, and the national stage application was processed based on the original publication, that is, with the 24 original claims. It was on this basis that the USPTO charged applicant the additional $150 required for inclusion of three additional claims beyond the 21 paid for by applicant upon filing.[1]

In the present petition, applicant argues that the international application was properly amended pursuant to PCT procedures, with the original set of 24 claims replaced by the revised set of 21 claims annexed to the IPRP. Applicant therefore asserts that the amended claims

[1] As noted above, applicant was originally charged this $150 fee twice, but one of these duplicative charges was subsequently refunded to applicant.

should be entered in the present national stage application and that the additional $150 fee charged to applicant, based as it was on the purported inclusion of 24 total claims, should be refunded.

Box No. 1 of the IPRP confirms that the examination was based on the amended set of claims listed on annexed pages 30-35, and Box No. V of the IPRP makes clear that only claims 1-21 were considered by the IPEA. Under these circumstances, despite the failure of the IPRP to expressly indicate that claims 22-24 had been cancelled by applicant, it is concluded that the revised set of 21 claims contained on pages 30-35 (annexed to the IPRP issued 19 December 2007) are the claims of record herein and that this set of amended claims is therefore properly entered as the claims of record for the present national stage application.

In view of the above, the present application contains 21 total claims. The additional $150 fee charged to applicant based on the purported inclusion of 24 total claims is therefore appropriately refunded, as requested in the present petition.

CONCLUSION

Applicant's petition is **GRANTED**.

The annexes to the IPRP issued 19 December 2007, including the revised set of 21 claims (pages 30-35), will be entered in the present national stage application.

Deposit Account No. 50-1924 will be credited with a refund of the $150 fee charged for inclusion of additional total claims beyond the 21 for which applicant has paid the appropriate fees.

The application is being referred to Group Art Unit GAU 2622 for further consideration in accordance with this decision.

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

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17 MAR 2008

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

In re Application of DAFTARY et al. Application No.: 11/991,203 PCT No.: PCT/IN06/00299 Int. Filing: 11 August 2006 Priority Date: 12 August 2005 Attorney Docket No.:01470-32579.US For: AQUEOUS ANAESTHETIC COMPOSITIONS COMPRISING PROPOFOL	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $310 has now been provided. The required petition fee of $1540 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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2 8 JAN 2009

WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

In re Application of FROST et al	:	
U.S. Application No.: 11/991,228	:	
PCT Application No.: PCT/AU2006/001026	:	DECISION
Int. Filing Date: 21 July 2006	:	
Priority Date Claimed: 30 August 2005	:	
Attorney Docket No.: 46967-P011WOUS	:	
For: ILLUMINATED TOKEN	:	

This is in response to applicant's "Petition to Change the Order of Inventors" filed 19 September 2008, which is being treated under 37 CFR 1.182.

BACKGROUND

On 21 July 2006, applicant filed international application PCT/AU2006/001026, which claimed priority of an earlier Australia application filed 30 August 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 08 March 2007. The thirty-month period for paying the basic national fee in the United States expired on 29 February 2008.

On 28 February 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 19 September 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

MPEP 605.04(f) states in relevant part,

> The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration. Care should therefore be exercised in selecting the preferred order of the typewritten names of the joint inventors, before filing, as requests for

> subsequent shifting of the names would entail changing numerous records in the Office. Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. The petition should be directed to the attention of the Office of Petitions. The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. It is suggested that all typewritten and signed names appearing in the application papers should be in the same order as the typewritten names in the oath or declaration. When the Office of Petitions grants a petition to change the order of the names of the inventors, the Office of Petitions will change the order of the names in the Office computer records and print a new bib-data sheet . . . .

In the present case, applicant has submitted a proper petition under 37 CFR 1.182 to change the order of the inventors names. The Office computer records have been updated. A new bibliographic data sheet is attached to this decision.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

ATTACHMENT: Bibliographic Data Sheet

0 9 MAY 2008

United States Patent and Trademark Office

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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of	:	
Wendorff et al.	:	
Application No.: 11/991,246	:	
PCT No.: PCT/DE2006/001488	:	
Int. Filing Date: 25 August 2006	:	DECISION
Priority Date: 25 August 2005	:	
Attorney Docket No.: 12007-0103	:	
For: Production Of Metal Nano-And Mesofibers	:	

The petition to revive under 37 CFR 1.137(b) filed on 29 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee, and has paid the petition fee, both on 29 February 2008. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Inspection of the declaration filed on 29 February 2008 reveals that it has not been executed by the inventors. The English translation of the international application appears to be defective at least for the reason that the drawings include untranslated German language text (e.g., "Cu-Fasern" on drawing sheet 1), while the specification and claims include German text such as the word "Seite" accompanying the page numbers.

This application is being forwarded to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b), a proper English translation, the surcharge under 37 CFR 1.492(h), and the processing fee under 37 CFR 1.492(i).

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

3 1 AUG 2009

United States Patent and Trademark Office

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Evans et al.	:	
Application No. 11/991,286	:	
PCT No.: PCT/IB2006/003512	:	
Int. Filing Date: 31 August 2006	:	DECISION
Priority Date: 02 September 2005	:	
Atty. Docket No.: 052209-0170; 040283-0238	:	
For: FAP Inhibitors	:	

This is in response to request for withdrawal as attorney or agent filed on 26 March 2009.

BACKGROUND

This international application was filed on 31 August 2006, claimed an earlier priority date of 02 September 2005, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 02 March 2008. Applicant filed *inter alia* the basic national fee on 29 February 2008.

On 17 February 2009, a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) was mailed to applicant.

DISCUSSION

Counsel seeks withdrawal from the representation of the practitioners associated with Customer Number 22428, and cites 37 CFR 10.40(b)(4) as the reason for withdrawal.

Counsel certifies that "I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment," that "I/We have 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 that "I/We have notified the client of any responses that may be due and the time frame within which the client must respond."

The request was filed within the period for response to the Notification of Missing Requirements mailed on 17 February 2009.

Review of the record reveals that no power of attorney appointing the practitioners associated with Customer Number 22428, in compliance with 37 CFR 1.32, appears to have been filed in the instant application. As such, counsel is regarded as having acted in a representative capacity under 37 CFR 1.34. The procedure for withdrawal of attorneys in national applications was revised on May 12, 2008. *See* OG notice 1329 OG 99, April 8, 2008. Under the revised

procedure, the Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. For this reason, counsel's request is **DISMISSED**, without prejudice.

Counsel has not affirmatively requested a change of correspondence address, pursuant to 37 CFR 1.33(a). Therefore, the correspondence address of record has not been changed.

DECISION

The request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). No such response is required.

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

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

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

cc: Vladimir Slep
14 Woodridge Dr.
Chester, NY 10918

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

In re Application of APPLEYARD et al.	:
Application No.: 11/991,293	:
PCT No.: PCT/GB06/03081	: DECISION ON
Int. Filing: 18 August 2006	:
Priority Date: 01 September 2005	: PETITION
Attorney Docket No.: 1-29913	:
For: A STEERING COLUMN ASSEMBLY	:UNDER 37 CFR 1.47(a)
	:

This is a decision on applicant's Petition Under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office on 29 April 2009. Applicant's request for a three month extension of time is granted.

BACKGROUND

On 19 December 2008, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 29 April 2009, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the joint inventor on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor David J. Ward alleging that the inventor refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant has satisfied Item (1) with the requisite $200 petition fee.

With respect to Item (2), a copy of the correspondence sent to the nonsigning inventor was attached to the petition. The correspondence indicated that a complete copy of the application papers including the declaration was enclosed. A Delivery Confirmation Receipt was also provided as the indication that the papers were delivered to the nonsigning inventor. Thus, it is clear that a copy of the application papers, including a declaration, was delivered to the nonsigning inventor as set forth in a first hand statement of facts regarding the non-signing

inventor's refusal to sign. Item (2) is satisfied.

With regard to Item (3), the petition provides the last known address of inventor satisfying Item (3).

With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by the co-inventor, identifying the inventors and providing their respective residence, citizenship and mailing address, as required pursuant to 37 CFR 1.497(a) and (b). Item (4) is satisfied. Thus, Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declaration filed 29 April 2009. The application has an international filing date of 18 August 2006 under 35 U.S.C. 363, and a date of 29 April 2009 under 35 U.S.C. 371(c).

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 272-0459

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Alexandria, VA 22313-1450
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02 JUL 2009

DR. DAVID WARD
THE COACH HOUSE
GLENDOWER STREET
MONMOUTH
NP25 3UY
UNITED KINGDOM

In re Application of APPLEYARD et al.	:
Application No.: 11/991,293	:
PCT No.: PCT/GB06/03081	:
Int. Filing: 18 August 2006	:DECISION ON PETITION
Priority Date: 01 September 2005	:
Attorney Docket No.: 1-29913	: UNDER 37 CFR 1.47(a)
For: A STEERING COLUMN ASSEMBLY	:

Dear Dr. Ward:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

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

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

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ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

In re Application of APPLEYARD et al	:	
U.S. Application No.: 11/991,318	:	
PCT Application No.: PCT/GB2006/003126	:	DECISION
Int. Filing Date: 21 August 2006	:	
Priority Date Claimed: 01 September 2005	:	
Attorney Docket No.: 1-29944	:	
For: A STEERING COLUMN ASSEMBLY	:	

This is in response to applicant's petition under 37 CFR 1.47(a) filed 04 September 2009.

BACKGROUND

On 21 August 2006, applicant filed international application PCT/GB2006/003126, which claimed priority of an earlier United Kingdom application filed 01 September 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2007. The thirty-month period for paying the basic national fee in the United States expired on 03 March 2008.

On 29 February 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 July 2009, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 04 September 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

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

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

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> * * *
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged

> in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The petition states that joint inventor David Ward cannot be reached after diligent effort. However, it is apparent from the delivery confirmation receipts associated with the 10 February 2009, 20 February 2009, and 12 March 2009 letters sent to Dr. Ward that the location of Dr. Ward is known. Thus, it would not be reasonable to conclude that Dr. Ward cannot be found. It is noted that Dr. Ward's failure to respond to the three letters successfully delivered to him could be deemed a constructive refusal to cooperate. However, applicant has not alleged that Dr. Ward refuses to sign.

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

With regard to item (4) above, the petition does not specifically state the last known address of the nonsigning inventor.

CONCLUSION

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

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

2 0 JAN 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

In re Application of APPLEYARD et al	:	
U.S. Application No.: 11/991,318	:	
PCT Application No.: PCT/GB2006/003126	:	DECISION
Int. Filing Date: 21 August 2006	:	
Priority Date Claimed: 01 September 2005	:	
Attorney Docket No.: 1-29944	:	
For: A STEERING COLUMN ASSEMBLY	:	

This is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 19 November 2009.

BACKGROUND

On 21 August 2006, applicant filed international application PCT/GB2006/003126, which claimed priority of an earlier United Kingdom application filed 01 September 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2007. The thirty-month period for paying the basic national fee in the United States expired on 03 March 2008.

On 29 February 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 July 2009, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 04 September 2009, applicant filed a petition under 37 CFR 1.47(a).

On 03 November 2009, this Office mailed a decision dismissing the 04 September 2009 petition.

On 19 November 2009, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

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

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The petition states that joint inventor David Ward refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Dr. Ward for signature and that Dr. Ward received such papers (see affidavit of Martin Bissell and Enclosures 1-4). Furthermore, the petition sufficiently illustrates that Dr. Ward refuses to sign. Specifically, Dr. Ward's failure to respond to the three letters successfully delivered to him is deemed a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Dr. Ward refuses to join in the application.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 21 August 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 04 September 2009.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

2 0 JAN 2010

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dr. David Ward
The Coach House
Glendower Street
Monmouth
NP25 3UY
UNITED KINGDOM

In re Application of APPLEYARD et al
U.S. Application No.: 11/991,318
PCT Application No.: PCT/GB2006/003126
Int. Filing Date: 21 August 2006
Priority Date Claimed: 01 September 2005
For: A STEERING COLUMN ASSEMBLY

Dear Dr. David Ward:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604
Attorney Docket No.: 1-29944

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

0 2 MAY 2008

Lawrence M. Jarvis
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re Application of	:	
SCHIMMEL et al.	:	
Application No.: 11/991,391	:	
PCT No.: PCT/DE2005/001541	:	DECISION ON
Int. Filing Date: 02 September 2005	:	
Priority Date: 08 September 2004	:	PETITION FOR REVIVAL
Attorney Docket No.: 19593US01	:	
For: GATE CONTROLLED ATOMIC SWITCH	:	UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTIONALLY – UNDER 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 03 March 2008.

BACKGROUND

On 02 September 2005, applicant filed international application PCT/DE2005/001541, which designated the U.S. and claimed priority date of 08 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2007. Accordingly, PCT/DE2005/001541 became abandoned as to the United States of America at midnight 08 March 2007 for failure to timely pay the Basic National Fee.

On 03 March 2008, applicant filed a submission for entry into the national stage in the United States, which was accompanied by, inter alia, the U.S. Basic National Fee and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has provided the required reply.

Regarding item (2), the $770 petition fee has been charged to the Deposit Account No. 130017 as authorized by applicant.

Regarding item (3), the petition was not signed by all of the applicants. The petition was only signed by Thomas Schimmel and no signatures were provided by applicants Fangging Xie and Christian Obermair. Therefore, the requirement to item (3) has not been met.

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

CONCLUSION

For the reason detailed above, applicants' petition under 37 CFR 1.137(b) is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Shian Luong
Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557
Fax: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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2 3 SEP 2008

Lawrence M. Jarvis
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re Application of	:	
SCHIMMEL et al.	:	
Application No.: 11/991,391	:	
PCT No.: PCT/DE2005/001541	:	DECISION ON
Int. Filing Date: 02 September 2005	:	
Priority Date: 08 September 2004	:	RENEWED PETITION
Attorney Docket No.: 19593US01	:	
For: GATE CONTROLLED ATOMIC SWITCH	:	UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 11 June 2008.

BACKGROUND

On 03 March 2008, applicant submitted a petition to revive the national stage application. The petition was dismissed on the ground that the petition was not signed by all of the inventors.

A renewed petition was filed on 12 June 2008 with the signatures of all the inventors.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has provided the required reply.

Regarding item (2), the $770 petition fee has been charged to the Deposit Account No. 130017 as authorized by applicant.

Regarding item (3), the petition was signed by all of the inventors and includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement.

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

CONCLUSION

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

This application has a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 03 March 2008.

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

Shian Luong
Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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KENYON & KENYON
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

Applicant: Abe Kazuyoshi, et al.
Appl. No.: 11/991,530
International Filing Date: September 7, 2006
Title: INTAKE PORT STRUCTURE INTERNAL COMBUSTION ENGINE
Attorney Docket No.: 10517/396
Pub. No.: US 2009/0120400 A1
Pub. Date: May 14, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 26, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the assignee's is incorrect.

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 August 26, 2009, was not timely filed under 37 CFR 1.221(b).

The error on the front page of the publication wherein the assignee's name TOYOTA JIDOSHA KABUSHIKI KAISHA is misprinted as Vaisala Oyi, Helsinki (FI) may be an Office error, but it is not a material Office error under 37 CFR 1.221. [2] Applicant should not file requests for

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).
[2] See 37 CFR 1.215, MPEP 1122 and Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

corrected publication when a publication includes errors in assignment information or missing assignment information. See MPEP 1130. Furthermore, the misprinting of the assignee's name does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On February 4, 2009, a Filing Receipt was mailed by the Office, which incorrectly listed the assignee's name. To avoid this type of problem in the future, applicant's representative should correct the error and make a request for a corrected filing receipt prior to export of the application to the publisher and publication of the application.

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

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

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

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

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

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

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

3 0 SEP 2009

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Lambert & Associates
92 State Street
Boston MA 02109

In re Application of: KLAIBER, Franz, et al.	:	
U.S. Application No.: 11/991,581	:	DECISION
PCT No.: PCT/EP2006/008772	:	
International Filing Date: 08 September 2006	:	
Priority Date: 09 September 2005	:	
Atty Docket No.: 08-039-PW	:	
For: DEVICE FOR CONVEYING	:	
OBJECTS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Accept Previously Filed English Translation For US National Stage Application" filed 28 May 2009. The petition is treated herein as a petition under 37 CFR 1.181 to confirm the 19 March 2009 filing of the attached substitute English translation of the international application, and to have such substitute translation entered in the application file. No petition fee is required.

BACKGROUND

On 08 September 2006, applicants filed international application PCT/EP2006/008772. The international application claimed a priority date of 09 September 2005, and it designated the United States. On 15 March 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e. 09 March 2008.

On 06 March 2008, applicants filed a Transmittal Letter requesting entry into national stage accompanied by, among other materials, payment of the basic national fee and a purported translation into English of the international application.

On 13 January 2009, the United States Designated/Elected office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, the search and examination fees, and additional claims fees were required.

On 19 March 2009, applicants filed a response to the Notification Of Missing Requirements (with required one-month extension fee). The submission included an executed declaration, payment of the required surcharge, search and examination fees, a preliminary amendment revising the claims so that no additional claims fees were required, and payment of

the processing fee for filing an English translation of the application later than thirty months after the priority date.

On 20 May 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) and a filing receipt identifying the 35 U.S.C. 371(c) date as 19 March 2009.

On 28 May 2009, applicants filed the "Petition Under 37 CFR 1.182 To Accept Previously Filed English Translation For US National Stage Application" considered herein.

DISCUSSION

The materials filed by applicants on 19 March 2009 contained in the application file do not include the substitute English translation of the international application purportedly included with such materials. However, the present petition includes a copy of the substitute English translation, as well as a copy of a return postcard that itemizes the materials filed by applicants in response to the Notification Of Missing Requirements and bears a USPTO receipt stamp dated 19 March 2009. The return postcard specifically itemizes a "Replacement English Translation" included in the 19 March 2009 filing.

Based on the statements in the present petition and the attached return postcard, it is concluded that the materials accompanying the present petition, including the revised English translation of the international application as filed, were originally filed herein on 19 March 2009. Applicants' petition to confirm such filing and to have the substitute English translation placed in the application file is therefore appropriately granted.

CONCLUSION

The petition under 37 CFR 1.181 to confirm the 19 March 2009 filing of the substitute English translation of the international application and to have such translation entered into the application file is **GRANTED**.

The present decision does not effect the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), which remains 19 March 2009 (as set forth in the "Notification Of Acceptance" and filing receipt mailed 20 May 2009).

The application is being referred to Group Art Unit 3651 for further processing and examination in accordance with this decision.

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

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

Mail Date: 06/18/2010

Applicant	: Maarten Kuijk	: DECISION ON REQUEST FOR
Patent Number	: 7633354	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/991,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **83** 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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1 0 JUN 2008

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

In re Application of:	:	
EVERSDIJK et al.	:	
U.S. Application No.: 11/991,653	:	
PCT No.: PCT/NL2006/00449	:	
International Filing Date: 11 September 2006	:	DECISION
Priority Date: 12 September 2005	:	
Attorney's Docket No.: ARC-1328-49	:	
For: METHOD FOR INCORPORATING A FUNCTIONAL ADDITIVE WITHIN A POROUS MATERIAL	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 11 September 2006, applicant filed international application PCT/NL2006/00449. The international application claimed a priority date of 12 September 2005, and it designated the United States. Payment of the basic national fee in the United States was due within thirty months of the priority date, i.e. 12 March 2008.

On 07 March 2008, applicant, through the law firm of Nixon & Vanderhye, filed a transmittal letter seeking entry into the U.S. national stage for international application PCT/NL2006/00449 accompanied by, among other materials, payment of the basic national fee. This submission, which did not include a declaration or a power of attorney appointing these attorneys, was assigned U.S. application number 11/916,653 and entered into the USPTO's PALM system as the national stage of PCT/NL2006/00449.

On 12 March 2008, applicant, through the law firm of Hoffmann & Baron, filed a transmittal letter, with accompanying materials, seeking entry into the U.S. national stage for the same international application, PCT/NL2006/00449. This submission was initially assigned U.S.

application number 11/991,898, although this application number was not entered into the USPTO's PALM system.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage under 35 U.S.C. 371 have been submitted for international application PCT/NL2006/00449 (U.S. application numbers 11/991,653 and 11/991,898). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The documents filed by Nixon & Vanderhye and assigned application number 11/991,653 were the first of the two filings to be processed by the USPTO, with such U.S. application file being associated with the international application in the USPTO's PALM system. Accordingly, U.S. application number 11/991,653 is the application file that will continue to be processed as the national stage of PCT/NL2006/00449. The second set of national stage materials filed on 12 March 2008 and originally assigned U.S. application number 11/991,898 will be placed in the present application file, and U.S. application number 11/991,898 will be discontinued.

Because the applicant/inventor has appointed above-named counsel to prosecute the present national stage application, all future correspondence with respect to the U.S. national stage of PCT/NL2006/00449 will be directed solely to such attorneys, and no further communications herein will be addressed to the attorneys who filed the second set of national stage papers.

It is noted that the fees submitted on 12 March 2008 will be refunded to the law firm of Hoffmann & Baron.

CONCLUSION

U.S. Application number 11/991,653 will be processed as the U.S. national stage of PCT/NL2006/00449. All further correspondence with respect to this national stage application should reference U.S. application number 11/991,653.

U.S. application number 11/991,898 will be discontinued.

All future correspondence with respect to the U.S. national stage of PCT/NL2006/00449 will be directed solely to above-named attorneys. No further communications herein will be addressed to the attorneys who filed the second set of national stage papers.

Application no. 11/991,653 is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing to merge the papers filed

in U.S. Application no. 11/991,898 into U.S. Application no. 11/991,653 and (2) the filing fees of $930 paid by Hoffmann and Baron will be refunded to their deposit account.

Cynthia M. Kratz
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (703) 273-0459

cc: Ronald J. Baron
Hoffmann & Baron, L.L.P.
6900 Jericho Turnpike, Suite 200
Syosset, New York NY 11791

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CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP
601 SW Second Avenue
Suite 1600
PORTLAND OR 97204-3157

In re Application of:	:	
LEVEY, Michael, et al.	:	DECISION
U.S. Application No.: 11/991,674	:	(37 CFR 1.10(d))
PCT No.: PCT/GB2006/003496	:	
International Filing Date: 20 September 2006	:	
Priority Date: 20 September 2005	:	
Atty Docket No.: 9097.0001	:	
For: SYSTEMS AND METHODS FOR ANALYZING ELECTRONIC COMMUNICATIONS	:	

This decision is issued in response to the "Request To Correct U.S. Filing Date" filed 20 January 2010, treated herein under 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

On 25 September 2006, applicants filed international application PCT/GB2006/003496. The application claimed a priority date of 20 September 2005, and it designated the United States. On 29 March 2007, the International Bureau (IB) communicated a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 20 March 2008.

In March 2008, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an unexecuted declaration. The USPTO assigned the materials a filing date of 06 March 2008, corresponding apparently to the "date in" on the "Express Mail" envelope used to file the application materials.

On 02 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) stating that an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 20 January 2010, applicants filed a response to the Notification Of Missing Requirements (with required extension fee). The response included an executed declaration in compliance with 37 CFR 1.497, payment of the required surcharge, and the "Request To Correct U.S. Filing Date" considered herein. The submission asserts that the "Express Mail" envelope

containing the initial application materials filed herein was filed by "Express Mail" on 07 March 2008, not on 06 March 2008, and applicants request that the application file be corrected accordingly.

DISCUSSION

As noted above, applicants assert that the materials filed to initiate the present national stage application were filed via "Express Mail" on 07 March 2008 and that the USPTO incorrectly accorded these materials a filing date of 06 March 2008, such date corresponding to the handwritten "date in" of entered in error by the USPS on the "Express Mail" receipt.

37 CFR 1.10(d) states the following:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicants here have satisfied all the requirements for a grantable petition. With respect to item (2), a certificate of mailing included with the original application materials identified the "Express Mail" label number (EM145628986US). With respect to the showing required under item (3), applicant has provided a copy of the "Express Mail" receipt which, on its back, bears a USPS stamp dated 07 March 2008. In addition, a review of the USPS online tracking database confirms that the USPS accepted receipt of this envelope on 07 March 2008.

Based on the above, applicants have provided an acceptable showing that the submission initiating this national stage application was deposited with the USPS as "Express Mail" on 07 March 2008. These materials will therefore properly be treated as having been filed herein on 07 March 2008.

It is noted, however, that neither the incorrect 06 March 2008 filing date nor the corrected 07 March 2008 filing date will appear on the filing receipt issued herein. Rather, the filing receipt will set forth the 35 U.S.C. 371(c) date, that is, the date that applicants completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) by filing the executed declaration, i.e., 20 January 2010. See MPEP section 1893.03(b) (emphasis added):

> **The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371(c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements.** Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. **For most legal purposes, the filing date is the PCT international filing date.**

CONCLUSION

Applicants' petition under 37 CFR 1.10(d) is **GRANTED**. The materials initiating the present international application, including the basic national fee, will be treated as having been filed herein on 07 March 2008.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including correcting USPTO records to identify the filing date of the basic national fee and accompanying materials to 06 March 2008.

The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 20 January 2010.

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

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0 4 DEC 2008

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

In re Application of Ellis et al. Application No. 11/991,676 PCT No.: PCT/GB2006/003479 Int. Filing Date: 18 September 2006 Priority Date: 16 September 2005 Atty. Docket No.: 3289-8841US For: Improvements In Or Relating To Cosmetic Compositions	:	DECISION

This is in response to the "Submission Of Inventor's Declaration" filed on 29 September 2008.

BACKGROUND

This international application was filed on 18 September 2006, claimed an earlier priority date of 16 September 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 22 March 2007. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 March 2008. Applicants filed, *inter alia*, the basic national fee on 07 March 2008.

DISCUSSION

Inspection of the declaration filed on 29 September 2008 reveals that it nominates "Heeson, Tracey" in place of "THOMPSON, Tracey" named in the published international application. Petitioner petitions for acceptance of this name change under 37 CFR 1.182. MPEP 605.04(b) states in part that

> *Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.*

Petitioner indicates that "Mrs. Heeson was married after the International Filing Date resulting in the name change." The petition is accompanied by a "Declaration Of Tracey Heeson nee Thompson" in which the inventor states (in part) that "The PCT Application was filed using my maiden name, to wit, Tracey Thompson. The declaration for the U.S. Application has been prepared using my married name, Tracey Heeson." Based on the totality of the evidence of record, it would be appropriate to accept the name change appearing on the declaration.

Further inspection of the declaration filed on 29 September 2008 reveals that appears to have been assembled by aggregating separately signed sheets into a single document. MPEP 201.03 explains that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In view of this policy, it would not be appropriate to accept the declaration.

DECISION

The petition under 37 CFR 1.182 is **GRANTED** to the extent noted above..

This application is being forwarded to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

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

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2 5 MAR 2008

Robins & Pasternak, LLP
Attorneys At Law
1731 Embarcadero Rd, Ste 230
Palo Alto CA 94303

In re Application of	:	
KWON, Sung-Yun	:	
Application No.: 11/991,682	:	DECISION ON PETITION
PCT No.: PCT/US06/34606	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 05 September 2006	:	
Priority Date: 06 September 2005	:	
Attorney Docket No.: 4000-0004	:	
For: SOLID SOLUTION PERFORATOR CONTAINING DRUG PARTICLE AND/OR DRUG-ADSORBED PARTICLES		

The petition to revive under 37 CFR 1.137(b) filed 07 March 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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ROBERTA L. ROBINS
ROBINSON & PASTERNAK
SUITE 230
1731 EMBARCADERO ROAD
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Sung-Yun Kwon	:	
Application No. 11/991,682	:	DECISION ON PETITION
Filed: April 28, 2008	:	TO WITHDRAW
Attorney Docket No. 4000-0004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 2009.

The request is **APPROVED**.

The request was signed by Roberta L. Robins on behalf of the practitioners of record associated with Customer No. 20855.

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

All future correspondence will be directed to inventor Sung-Yun Kwon at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Sung-Yun Kwon
Theraject, Inc.
39270 Paseo Padre, Suite 112
Fremont, CA 94538

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/991,682	04/28/2008	Sung-Yun Kwon	4000-0004

CONFIRMATION NO. 9599

POWER OF ATTORNEY NOTICE

Roberta L Robins
ROBINSON & PASTERNAK
Suite 230
1731 Embarcadero Road
Palo Alto, CA 94303

OC000000037556561

Date Mailed: 08/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2009.

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

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/991,682	04/28/2008	Sung-Yun Kwon	4000-0004

CONFIRMATION NO. 9599

POA ACCEPTANCE LETTER

Sung - Yun Kwon
Theraject, Inc.
39270 Paseo Padre, Suite 112
Fremont, CA 94538

OC000000037556625

Date Mailed: 08/28/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2009.

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

/idingle/

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

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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W.,
SUITE 1130
WASHINGTON DC 20036

In re Application of
GOTO, Junya, et al.
Application No.: 11/991,729
PCT No.: PCT/JP2005/016710
Int. Filing Date: 12 September 2005
Priority Date: None
Docket No.: 033036 M 146
For: PROCESS FOR PRODUCING REGENERATED RESIN, REGENERATED RESIN, PROCESSING RECOVERED MATTER FROM RESIN COMPOSITION, REGENERATED RESIN COMPOSITION AND METHOD OF REGENERATING RESIN COMPOSITION

DECISION

ON PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 18 February 2009.

BACKGROUND

On 18 November 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 18 February 2009, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors and the fee for a one month extension of time.

DISCUSSION

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

Item (1), (3) and (4) have been met. The $200 petition fee has been paid. Applicant states the last known address of Kazunori Shimoyachi as #510 Sumitomo Bakelite Surugadai Dormitory, 5-5-1 Surugadai, Fujieda-shi, Shizuoka, Japan. The declaration complies with 37 CFR 1.497(a)-(b) and 1.47.

Item (2) has not been satisfied. Applicants are attempting to establish that the non-signing inventor could not be reached after a diligent effort. Applicants indicate it is their understanding that NTT will not provide a phone number without an address, but applicants do not indicate that they attempted to locate the phone number. Further, applicants attempted to locate the inventor through the main database on Google. Ordinarily, attempts to locate an inventor are done through "white pages" or a people search.

CONCLUSION

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

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 5 AUG 2009

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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W.,
SUITE 1130
WASHINGTON DC 20036

In re Application of	:	
GOTO, Junya, et al.	:	
Application No.: 11/991,729	:	
PCT No.: PCT/JP2005/016710	:	
Int. Filing Date: 12 September 2005	:	
Priority Date: None	:	DECISION
Docket No.: 033036 M 146	:	
For: PROCESS FOR PRODUCING	:	ON PETITION UNDER
REGENERATED RESIN,	:	
REGENERATED RESIN,	:	37 CFR 1.47(a)
PROCESSING RECOVERED	:	
MATTER FROM RESIN	:	
COMPOSITION, REGENERATED	:	
RESIN COMPOSITION AND	:	
METHOD OF REGENERATING	:	
RESIN COMPOSITION	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 23 June 2009.

BACKGROUND

On 10 April 2009, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 23 June 2009 and 24 June 2009, applicants filed a petition under 37 CFR 1.47(a) accompanied by the fee for a one month extension of time.

DISCUSSION

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

Item (1), (3) and (4) were previously satisfied. The $200 petition fee has been paid. Applicant states the last known address of Kazunori Shimoyachi as #510 Sumitomo Bakelite

Surugadai Dormitory, 5-5-1 Surugadai, Fujieda-shi, Shizuoka, Japan. The declaration complies with 37 CFR 1.497(a)-(b) and 1.47.

Item (2) has now been satisfied.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **18 February 2009**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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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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Kazunori Shimoyachi
#510 Sumitomo Bakelite Surugadai Dormitory
5-5-1 Surugadai,
Fujieda-shi, Shizuoka
Japan

In re Application of
GOTO, Junya, et al.
Application No.: 11/991,729
PCT No.: PCT/JP2005/016710
Int. Filing Date: 12 September 2005
Priority Date: None
Docket No.: 033036 M 146
For: PROCESS FOR PRODUCING REGENERATED RESIN, REGENERATED RESIN, PROCESSING RECOVERED MATTER FROM RESIN COMPOSITION, REGENERATED RESIN COMPOSITION AND METHOD OF REGENERATING RESIN COMPOSITION

Dear Mr. Shimoyachi:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

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Pollack, P.C
132 East 43rd Street, Ste. 760
New York NY 10017

In re Application of	:	
FANETTI, Ilio et al.	:	
Application No.: 11/991,770	:	DECISION
PCT No.: PCT/IT2005/000214	:	
Int. Filing Date: 14 April 2005	:	ON PETITION UNDER
Priority Date: None	:	
Docket No.: 1014.1090	:	37 CFR 1.137(b)
For: UNIVERSAL ANTISLIP CLAW FOR FOOTWEAR	:	

Applicant's Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 07 March 2008 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee, and fee has not yet been paid.

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration are required.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

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OFFICE OF PETITIONS

NIELDS, LEMACK & FRAME, LLC
176 E. MAIN STREET, SUITE #5
WESTBOROUGH, MA 01581

In re Application of	
A.K. Gunnar ABERG, et al.	
Application No. 11/991,771	DECISION ON PETITION TO MAKE
Filed: June 16, 2008	SPECIAL UNDER 37 CFR 1.102(c)(1)
Attorney Docket No. **559P036-US**	

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 the statement and driver's license of inventor A.K. Gunner Aberg, 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 571-272-1600.

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 1614 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

0 8 APR 2008

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

In re Application of:	:	
SULAIMAN, Brian, et al.	:	
U.S. Application No.: 11/991,804	:	DECISION ON PETITION
PCT No.: PCT/GB2006/003017	:	
International Filing Date: 14 August 2006	:	
Priority Date: 12 August 2005	:	
Atty Docket No.: 2491-91	:	
For: THE MILLING SYSTEM	:	

The petition for revival under 37 CFR 1.137(b) filed 11 March 2008 in the above-captioned application is hereby **GRANTED** as follows:

The present application became abandoned with respect to the United States at midnight on 12 February 2008 based on applicants' failure to enter the U.S. national stage and pay the basic national fee prior to the expiration of thirty months from the priority date.

The present petition for revival was accompanied by payment of the required petition fee and the "required reply" in the form of a request for entry into the U.S. national stage and payment of the basic national fee. In addition, the petition includes a statement that "the entire delay in filing the U.S. national phase request for examination from the due date for filing until the filing of a grantable petition pursuant Rule 137(b) was unintentional as the applicants did not intend to abandon the subject matter of the application." This statement is construed as the statement required under 37 CFR 1.137(b0(3), that is, a statement that the "entire delay in filing the required reply from the due day for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Applicant **must** contact this Office if this is not a proper interpretation of applicants' statement. Based on the above interpretation of applicants' statement, the requirements of 37 CFR 1.137(b)(3) are considered satisfied.

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application with respect to the United States is appropriately granted.

It is noted that an executed declaration under PCT Rule 4.17(iv) was filed during the international phase.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 11 March 2008.

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

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

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of PELMAN et al. Serial No.: 11/991,893 PCT No.: PCT/CA06/01029 Int. Filing Date: 15 June 2006 Priority Date: 15 June 2005 Attorney's Docket No.:6454-71358-03 For: ADSORPTIVE BULK SEPARATION FOR UPGRADING GAS STREAMS	DECISION ON PETITION UNDER 37 CFR 1.181 and 1.137(b)

This is a decision on applicant's "Request for Petition for Revival of An international Application for Patent Designating the U.S. Under 37 CFR 1.137" in the above referenced application, filed 06 June 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 June 2006, applicant filed international application PCT/CA06/01029, which claimed a priority date of 15 June 2005 and designated the United States. The time period within which to file a national stage application under 35 U.S.C. 371 to thirty months from the priority date or by midnight 15 December 2007. Thereafter, the application went abandoned for failure to pay the basic national fee by the expiration of the thirty month period.

On 11 March 2008, applicant filed his request for entry into the U.S..national stage.

On 06 June 2008, applicant submitted a copy of the instant Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b) along with a postcard receipt indicating that the original petition to revive was filed on 11 March 2008.

DISCUSSION

Petition under 37 CFR 1.181

At the outset, it is noted that the petition to revive is not found among the papers filed on 11 March 2008. Applicant provided a copy of the USPTO date-stamped itemized post card receipt[1]

[1] As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 6, September 2007)(MPEP):

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

which indicates that the petition to revive accompanied applicant's filing under 35 U.S.C. 371 on 11 March 2008. Applicant states that a true and accurate copy of the petition as originally filed on 11 March 2008 is presented.

The postcard identifies the application number, applicant name and docket number. Among the items listed on the postcard receipt are "Transmittal Letter to the U.S. DO/EO/US Concerning Filing Under 35 U.S.C. 371", a copy of the international application no. PCT/CA2006/001029, copy of International Search Report, Combined declaration, check in the amount of $2,620. The itemized postcard receipt is date-stamped by the USPTO "IAP07Rec'd 11 MAR 2008."

A review of the USPTO date-stamped, itemized postcard receipt indicates that the Petition for Revival of an International Application for Patent, *inter alia*, was deposited with the USPTO on 11 March 2008. Applicant has now presented a copy of the Petition originally filed on 11 March 2008 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the Petition was received in the USPTO on 11 March 2008 and that the postcard receipt indicating a date of 11 March 2008 was mailed by the USPTO. Accordingly, the Office accepts the copy of the petition papers as a replacement for the missing original documents with a deposit date of 11 March 2008.

Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional", and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d),

With regard to Item (1), the proper reply, that is, the basic national fee of $155 was provided. With respect to Item (2), the petition included the petition fee of $770. As to Item (4) above, no terminal disclaimer is required as the application was filed after 09 June 1995. Thus, Items (1), and (2) are satisfied.

With regard to Item (3), applicant made the following statements: "[a] representative of the assignee of the international application instructed the attorney via electronic mail on November 21, 2007 to enter the National Stage in the United States." and "[a] representative of the assignee of the international application telephoned the attorney on March 11, 2008, to inquire about the status of the National Stage application. The undersigned attorney immediately prepared papers for filing a U.S. National Stage application on March 11, 2008."

Applicant did not explain the delay in filing the national stage application of PCT/CA06/01029 or the period of delay from expiration of the thirty month period (15 December 2007) until the filing of the petition to revive on 11 March 2008 occurred. Nor did applicant make the required statement that the "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". This statement is required.

The delay raises a question as to whether the delay in filing the national stage application was intentional and whether the delay in filing a request for revival was intentional. Additional explanation by counsel and any additional documents which would shed light on whether the delay in filing the U.S. national stage application was unintentional would be helpful in the Office's determination. Notes, telephone messages and logs relevant to the time periods of the delay demonstrating a diligent effort to file the petition to revive would be helpful to determine whether

the delay was intentional. Also statements regarding the delay in filing a petition to revive from those persons involved in the decision making regarding such petition would be helpful in determining whether the delay was unintentional.

In explaining the delay, counsel must provide further explanation of the delay in filing the national stage application and the petition to revive, i.e., why Petitioner was not aware of the need to file the national stage application and the petition to revive without delay. An explanation of the delay in filing the initial petition pursuant to 37 CFR 1.137(b) including further information as to when the applicant (or applicant's representative) first became aware of the abandonment of the application should be provided. A showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant or (applicant's representative) should be submitted. Furthermore, a person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional, unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of a grantable petition to revive under 37 CFR 1.137(b), was unintentional.

The Office may require an applicant to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b) where there is a question whether the entire delay was unintentional. See *Application of G*, 11 USPQ2d at 1380. Accordingly, it is appropriate for the Office to require further information as to how the delay in discovering the abandoned status occurred despite the exercise of due care and diligence on the part of applicant and applicant's representatives. Petitioner should explained how the delay occurred despite the exercise of due care and diligence on the part of applicant and his chosen representative. The USPTO cannot conclude that the entire delay in filing a national stage application until the date of filing this petition was unintentional. Accordingly, the granting of the petition under 37 CFR 1.137(b) for revival based on unintentional delay would not be proper at this time.

CONCLUSION

For the reasons discussed above, the petition to under 37 CFR 1.181 is **GRANTED**.

For the reasons discussed above, the petition to revive under 37 CFR 1.137(b) is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Any request for reconsideration on the merits of this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b). No additional petition fee is required.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of PELMAN et al. Serial No.: 11/991,893 PCT No.: PCT/CA06/01029 Int. Filing Date: 15 June 2006 Priority Date: 15 June 2005 Attorney's Docket No.:6454-71358-03 For: ADSORPTIVE BULK SEPARATION FOR UPGRADING GAS STREAMS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's "Renewed Petition Under 37 CFR 1.137(b)" in the above referenced application, filed 10 July 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 06 June 2008, applicant submitted a copy of the Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b) along with a postcard receipt indicating that the original petition to revive was filed on 11 March 2008.

On 30 June 2008, a decision on the petition was mailed to applicant indicating that the petition under 37 CFR 1.181 was granted; however, the petition under 37 CFR 1.137(b) was dismissed for failure to explain the delay in filing the national stage application of PCT/CA06/01029.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional", and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d),

Items (1) and (2) were previously satisfied. In the instant application, Item (4) is not required.

With regard to Item (3), applicant made the following statement: "the entire delay in filing the National Stage application and the Petition to Revive was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the

filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office. Petitioner has satisfied the elements of 37 CFR 1.137(b). The petition to revive is granted.

CONCLUSION

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

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 27 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, are required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Fax: 571-273-0459

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P.O. Box 1450
Alexandria, VA 22313-1450
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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of PELMAN et al. Serial No.: 11/991,893 PCT No.: PCT/CA06/01029 Int. Filing Date: 15 June 2006 Priority Date: 15 June 2005 Attorney's Docket No.:6454-71358-03 For: ADSORPTIVE BULK SEPARATION FOR UPGRADING GAS STREAMS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Petition by Joint Inventors Filing on Behalf of Joint Inventor Who Cannot Be Reached After Diligent Effort Pursuant 37 CFR 1.47(a)" in the above referenced application, filed 09 February 2009 in the United States Patent and Trademark Office (USPTO). This is also responsive to Supplemental Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office filed on 25 February 2009.

BACKGROUND

On 08 October 2008, a Notice of Missing Requirements was mailed to applicant indicating, inter alia, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 09 February 2009, a petition under 37 CFR 1.47(a) was filed along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a), in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor Aaron Pelman.

On 25 February 2009, a Supplemental Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office was filed along with a declaration signed by the previously non-signing inventor.

DISCUSSION

Petitioner has now presented the declaration signed by inventor Aaron Pelman and a declaration executed by the joint inventors. A review of the declarations reveal that the declarations identify and are executed by all the inventors named in the international application. The declaration states the residency, citizenship and mailing address of each inventor.

The petition under 37 CFR 1.47(a) is considered moot as declaration executed by the previously unavailable inventor has now been submitted. The declaration is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

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

The declaration, executed by the joint inventors and submitted on 11 March 2008 and 09 February 2009 are in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 09 February 2009.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

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

02 MAY 2008

CONNOLLY BOVE LODGE & HUTZ LLP
P.O. Box 2207
Wilmington, Delaware 19899-2207

In re Application of BEHR et al. Application No.: 11/991,896 PCT No.: PCT/EP2006/004254 Int. Filing Date: 06 May 2006 Priority Date: 03 June 2005 For: DETERGENT OR CLEANING AGENT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 137(b)" filed in the United States Patent and Trademark Office (USPTO) on 12 March 2008.

BACKGROUND

Applicant filed international application PCT/EP2006/004254, which designated the U.S. and claimed priority date of 03 June 2005 The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 December 2007. Accordingly, PCT/EP2006/004254 became abandoned as to the United States of America at midnight 03 December 2007 for failure to timely pay the Basic National Fee.

On 12 March 2008, applicant filed a submission for entry into the national stage in the United States, which was accompanied by, inter alia, the U.S. Basic National Fee and a petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2)

the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

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

Regarding item (2), the $1540 petition fee has been charged to Deposit Account No. 032775 as authorized by applicants.

Regarding item (3), the requisite statement has been provided.

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

CONCLUSION

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

This application is being referred to the National Stage Processing (DO/EO/US) for further processing in accordance with this decision, including the mailing of an appropriate Notification of Missing Requirements (Form PCT/DO/EO/905), which should indicate that an oath or declaration under 37 CFR 1.497 must be filed.

Bryan Lin

Shian Luong
Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557
Fax: (571) 273-0459

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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.
11/992,013	12/23/2008	Norihiro Nakamura	135473	4114

7590 10/19/2009
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
10/19/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Tiomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE, IL 60089

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Monika Hasbach Lugo, et al.	:	
Application No. 11/992,037	:	DECISION ON PETITION
Filed: September 17, 2009	:	TO WITHDRAW
Attorney Docket No. JCV 0057US	:	FROM RECORD
	:	

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 4, 2010.

The request is **APPROVED**.

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

The request was signed by Michael L. Kenaga 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 Monika Hasbach Lugo at the address indicated below.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Monika Hasbach Lugo**
Cuitlahuac No. 190
Dep. K8, Edif. Mangos
Col. Toriello Guerra, Estado de Mexico 14050
MEXICO

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
11/992,037	09/17/2009	Monika Hasbach Lugo	JCV 0057 US

CONFIRMATION NO. 4019

POWER OF ATTORNEY NOTICE

67339
IPHORGAN, LTD.
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE, IL 60089

OC000000041278783

Date Mailed: 04/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2010.

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

/tsjohnson/

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

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1 0 JUL 2009

COMMISSIONER FOR PATENTS
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Devgen NV	:	DECISION ON
Application No.: 11/992,091	:	
PCT No.: PCT/IB2006/004008	:	
Int. Filing Date: 18 September 2006	:	
Priority Date: 16 September 2005	:	PETITION UNDER
Attorney Docket No.: 074358-0137	:	
For: METHOD FOR CONTROLLING	:	
PESTS USING RNAI	:	37 CFR 1.181

This decision is in response to the "STATEMENT REGARDING... ON MAY 8, 2008," filed on 26 February 2009, which is being treated as a petition under 37 CFR 1.181, requesting acceptance of a copy of the Declaration, Power of Attorney purportedly filed in the USPTO on 8 May 2008. Applicant has submitted, inter alia, a copy of the 08 May 2008 USPTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: Executed Declaration/Power of Attorney Document.

BACKGROUND

On 14 March 2008, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed declaration or oath was provided with the transmittal letter at such time.

On 18 February 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date " must be submitted within two months from the date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 26 February 2009, applicant submitted this petition indicating that the executed Declaration was filed on 08 May 2008.

DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the PTO as indicated in the stamped postcard:

(1) Transmittal Letter to the U.S. Designated/Elected Office (DO/EO/US)
(2) Executed Declaration

The postcard lists the above items and bears a USPTO date of stamp as 08 May 2008.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 08 May 2008.

Accordingly, the date of receipt for the Executed Declaration is 08 May 2008.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **08 May 2008**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/992,098	03/14/2008	Akiko Matsuo	MATS3050	4438

7590 10/05/2009
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

EXAMINER

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
10/05/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Nimi James

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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OLIFF & BERRIDGE PLC
PO BOX 320850
ALEXANDRIA VA 22320-4850

COPY MAILED

DEC 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Burckhardt, et al.	:	
Application No. 11/992,120	:	ON PETITION
Filed: March 17, 2008	:	
Attorney Docket No. 136324	:	

This is in response to the petition under 37 CFR 1.182, filed August 27, 2008.

Applicants have requested to correct the name of inventor Doreen Scheidler to Doreen Janke. Included was an affidavit from Janke, executed using both her current and former names, as well as a supplemental ADS.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the inventor's name.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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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
11/992,120	05/16/2008	1791	5360	136324	24	2

CONFIRMATION NO. 4910

CORRECTED FILING RECEIPT

25944
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

OC000000033320223

Date Mailed: 11/26/2008

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

Applicant(s)

Urs Burckhardt, Zurich, SWITZERLAND;
Kai Paschkowski, Jork, GERMANY;
Martin Linnenbrink, Apensen, GERMANY;
Doreen Janke, Bonningstedt, GERMANY;

Assignment For Published Patent Application

SIKA TECHNOLOGY AG, BAAR, SWITZERLAND

Power of Attorney: The patent practitioners associated with Customer Number 25944

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP2006/066929 09/29/2006

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 05109112.2 09/30/2005

If Required, Foreign Filing License Granted: 06/29/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/992,120**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Reactive Polyurethane-Hot Melt Adhesive Having a Low Isocyanate-Monomer Content

Preliminary Class

156

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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CST

April 16, 2009

In re application of Masakazu Tanahashi et al Serial No. 11/992,146 Filed: September 18, 2008 For: ION CONCENTRATION REGULATION METHOD AND ION CONCENTRATION REGULATION APPARATUS	:	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 5, 2009.

The request and petition are **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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

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

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

2 3 FEB 2009

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Clark & Brody
1090 Vermont Avenue, NW
Suite 250
Washington, D.C. 20005

In re Application of :
OGASAWARA et al. :
Application No.: 11/992,162 : DECISION ON REQUEST
PCT No.: PCT/JP2006/316355 :
Int. Filing Date: 22 August 2006 :
Priority Date: 20 September 2005 :
Attorney Docket No.: 12054-0100 :
For: PROCESS FOR PRODUCING TI AND APPARATUS THEREFOR

This decision is issued in response to applicant's "Petition under 37 CFR 1.48 to Correct Inventorship" filed 16 May 2008 which is being treated as a Petition to Correct Inventorship under 37 CFR 1.497(d).

BACKGROUND

On 22 August 2006, applicant filed international application PCT/JP2006/316355 which claimed a priority date of 20 September 2005. The published international application identified six applicants/inventors for the United States: Tadashi Ogasawara; Makoto Yamaguchi; Toru Uenishi; Masahiko Hori; Kazuo Takemura; and Katsunori Dakeshita. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 20 March 2008.

On 18 March 2008, applicant filed a U.S. national stage application that included, among other materials, payment of the U.S. basic national fee; a copy of the international application; a preliminary amendment; and a declaration executed by; Tadashi Ogasawara; Makoto; Toru Uenishi; Masahiko Hori; Kazuo Takemura; and Katsunori Dakeshita.

On 16 May 2008, applicant filed a request under 37 CFR 1.497(d) which included a declaration executed by Makoto Yamaguchi.

DISCUSSION

The inventors of record for this application are, as set forth in the published international application, Tadashi Ogasawara; Makoto Yamaguchi; Toru Uenishi;

Masahiko Hori; Kazuo Takemura; and Katsunori Dakeshita. The failure to list all six inventors on the declaration filed 18 March 2008 did not effect the inventorship herein. Accordingly, to the extent that applicants' submission seeks to add Makoto Yamaguchi as an inventor, the submission is moot.

The declarations, however, filed on 18 March 2008 and 16 May 2008 are defective. Specifically, 37 CFR 1.497(a)(3) states that, among other information, the declaration must identify "each inventor and the country of citizenship of each inventor." Here, neither of the two declarations filed by applicants satisfy this requirement. The 18 March 2008 declaration identifies only five of the six inventors, whereas, the 16 May 2008 declaration identifies only one of the six inventors. Accordingly, neither of these declarations complies with 37 CFR 1.497(a)(3) and a newly executed declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

Applicant's request to add Makoto Yamaguchi as an inventor is **DISMISSED as MOOT**, in that, Makoto Yamaguchi is already an inventor of record for the present application.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/992,231	03/19/2008	Futoshi Izumi	1341.1587	4861

7590 07/01/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
VANDERPUYE, KENNETH N

ART UNIT	PAPER NUMBER
2613	

MAIL DATE	DELIVERY MODE
07/01/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Tom Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite1200
Washington, DC 20006

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
ALEXANDRA RIBEIRO ET AL.	:	
Application No. 11/992,282	:	DECISION ON PETITION
Filed: March 19, 2008	:	TO WITHDRAW
Attorney Docket No. **2005P11906 (NSN)**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 31, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 87133 has been revoked by the applicants of the patent application on May 28, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

2 5 FEB 2010

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

In re Application of	:	
SHENK, et al.	:	
U.S. Application No.: 11/992 ,337	:	DECISION ON PETITION
PCT No.: PCT/US2006/037058	:	
Int. Filing Date: 22 September 2006	:	UNDER 37 CFR 1.181
Priority Date: 23 September 2005	:	
Attorney's Docket No.: 48372-5003-00-US	:	
For: HUMAN CYTOMEGALOVIRUS LATENCY	:	
PROMOTING GENES, RELATED VIRUS	:	
VARIANTS AND METHODS OF USE	:	

This decision is in response to applicant's petition under 37 C.F.R. 1.181 filed 15 December 2009 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 September 2006, applicant filed international application PCT/US2006/037058, which claimed priority of an earlier application filed 23 September 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 March 2008.

On 20 March 2008, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Application Data Sheet and a preliminary amendment.

On 15 October 2009, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 25 November 2009, applicant responded with an executed declaration of the inventors.

On 02 December 2009, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that one of the inventor's name was different on the declaration than the name on the published international application. Applicant was afforded one

month or the time remaining from the mail date of Form PCT/DO/EO/905 to file a proper reply.

On 29 September 2009, applicant filed the present petition indicating that the inventor's name on the declaration (Thomas Shenk) was correct and that a typographical error caused the discrepancy.

DISCUSSION

As explained in the Manual of Patent Examining Procedure (MPEP) section 605.04:

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed.

In the present case, counsel has provided an explanation as to the discrepancy and confirmed that the inventor's name listed on the declaration is correct. As such, the declaration filed 25 November 2009 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **DISMISSED as moot**.

The declaration filed 25 November 2009 is accepted.

The application has an international filing date of 22 September 2006 under 35 U.S.C. 363 and will be given a date of **25 November 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing including the mailing of a "Notice of Acceptance" (Form PCT/DO/EO/903).

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

5 APR 2009

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30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of JUHL, Henrick U.S. Application No.: 11/992,385 PCT No.: PCT/EP2006/068392 Int. Filing Date: 13 November 2006 Priority Date: 05 December 2005 Attorney's Docket No.: 8472D-000005/US For: APPARATUS AND METHOD FOR SPECTROPHOTOMETRIC ANALYSIS	:	**DECISION**

This is a decision on the papers filed on 25 August 2008 which are treated as a petition under 37 CFR 1.182.

BACKGROUND

On 09 May 2008, applicant purportedly filed an executed declaration and $130.00 surcharge fee in the subject application. The declaration was not located in the file and the surcharge fee was not charged in the above-captioned application.

On 29 July 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and surcharge fee were required.

On 25 August 2008, applicant filed the subject petition which was accompanied by, *inter alia*, a date-stamped postcard receipt for the documents purportedly filed 09 May 2008, a copy of these documents, a copy of check No. 4676, and authorization to charge any required fees to Deposit Account No. 08-0750.

DISCUSSION

Applicant claims that an executed declaration and a surcharge fee were submitted on 09 May 2008 in the above-captioned application. However, the transmittal letter for the papers filed 09 May 2008 listed the U.S. application number as 11/992,**83**5. The correct number is 11/992,**38**5.

The papers and surcharge fee purportedly filed in the above-captioned application on 09 May 2008 were located in U.S. application number 11/992,835.

This is treated as a petition under 37 CFR 1.182 to correct and move the papers

to the above-identified application. The $400.00 petition fee has been charged to Deposit Account No. 08-0750 as authorized.

A review of the papers filed 09 May 2008 show that the papers were intended for the subject application. The title, attorney docket number and name of applicants correspond to U.S. application number as 11/992,385.

This is sufficient for a grantable petition.

DECISION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

The papers and $130.00 surcharge fee filed on 09 May 2008 in U.S. application number 11/992,835 have been moved to the subject application.

The declaration originally filed 09 May 2008 is in compliance with 37 CFR 1.497(a) & (b).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Alexandria, VA 22313-1450
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05 FEB 2010

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of JUHL, Henrick U.S. Application No.: 11/992,385 PCT No.: PCT/EP2006/068392 Int. Filing Date: 13 November 2006 Priority Date: 05 December 2005 Attorney's Docket No.: 8472D-000005/US For: APPARATUS AND METHOD FOR SPECTROPHOTOMETRIC ANALYSIS	**DECISION**

This is a decision on the "Request for Refund" filed on 13 July 2009 which is hereby **DISMISSED** without prejudice.

Applicant requests a refund of the $400.00 petition fee charged to move papers which incorrectly identified the application number upon filing. This correction resulted in applicant receiving an earlier "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date of Completion of all 35 U.S.C. 371 Requirements"on the Form PCT/DO/EO/903. Applicant also received an earlier "Filing or 371(c) Date" on the filing receipt.

In the request for refund,[1] applicant admits that the papers were improperly identified but argue that "there was sufficient corroborating information" to correctly identify the application at that time.

This argument is rejected.

It is the responsibility of the applicant to correctly identify the application to which papers were intended. The location of these papers resulted in additional work by USPTO personnel resulting from applicants errors.

As such, the $400.00 petition fee to correct the mistake is warranted.

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

---

[1] The request for refund also listed the wrong application number ("11/892,385") in the heading.

The application is being forwarded to Art Unit 2877 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

07 JUL 2008

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Walter A Hackler
Patent Law Office
2372 S E Bristol Street
Suite B
Newport Beach CA 92660-0755

In re Application of	:	
MILITZER	:	
Application No.: 11/992,449	:	DECISION
PCT No.: PCT/EP2006/008634	:	
Int. Filing Date: 05 September 2006	:	
Priority Date: 23 September 2005	:	
Attorney's Docket No.: 3748	:	
For: ELECTRICAL DRIVE MACHINE	:	

This is a decision on applicants' petition under 37 CFR 1.182 filed in the United States Patent and Trademark Office (USPTO) on 17 April 2008. The petition fee of $400.00 has been paid. The petition is **GRANTED** as discussed below.

On 21 March 2008, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter. The Transmittal Letter indicates the international application number as PCT/EP2006/0208634, which is not a valid international application number.

On 17 April 2008, applicants filed the instant petition under 37 CFR 1.182.

A review of the application file including counsel's statements in the instant submission, as well as a review of the international publication of PCT/EP2006/008634, reveals that the present application should in fact be the national stage application of international application PCT/EP2006/008634.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Frantz	:	DECISION ON PETITION
Application No. 11/992,494	:	TO WITHDRAW
Filed: March 21, 2008	:	FROM RECORD
Attorney Docket No. 2005P11912 (NSN)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 31, 2010.

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

A review of the file record indicates that on June 9, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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CST

January 8, 2009

In re application of	:	DECISION ON REQUEST TO
Tomomi Ichinose	:	PARTICIPATE IN PATENT
Serial No. 11/992,544	:	PROSECUTION HIGHWAY
Filed: March 25, 2008	:	PILOT PROGRAM AND
For: METHOD FOR MANUFACTURING	:	PETITION TO MAKE SPECIAL
GRIN LENS	:	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 August 13, 2008.

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, 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 pilot program and petition fail because:

(1) The applicants have failed to properly claim priority under 35 U.S.C. 119(a) to one or more IPAU or JPO applications. First, it is noted that applicant has used the form for the Request for Participation in the PPH Pilot Program Between IP Australia and the USPTO, however the IPAU application number given is JP 2007-548,629. Secondly, the present application does not claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU or JPO, specifically JP 2007-548629.

(3) Applicant must 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. Claim 1 of JP 2007-548629 requires the step of forming a wet gel from an alcohol solution containing as main components, a silicon alkoxide, a dopant alkoxide, and an aluminum alkoxide, however claim 1 of the present application does not require that the silicon alkoxide, a dopant alkoxide, and an aluminum alkoxide are "main components".

(5) Applicant must submit documentation of prior office action. Applicant has not indicated if the JPO application is a first action allowance and no copy of an office action just prior to the "Decision to Grant a Patent" was submitted. Furthermore, an attempt was made to retrieve these documents from the Dossier Access System (DAS), but was unsuccessful.

6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action. As an action by the JPO examiner was not provided and could not be accessed via the DAS, it is unclear if applicant has submitted an IDS listing the documents cited by the JPO examiner.

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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of LODGE, Timothy P., et al. Application No.: 11/992,560 PCT No.: PCT/GB2006/003954 Int. Filing Date: 23 October 2006 Priority Date: 22 October 2005 Docket No.: 2189-000014/US/NP For: MEASURMENT OF ROUGHNESS OF A PLAYING SURFACE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 18 August 2009.

BACKGROUND

On 18 February 2009, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for supplying the search fee, examination fee or oath or declaration after 30 months was required.

On 18 August 2009, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors and the fee for a four month extension of time.

DISCUSSION

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

Items (1) (2) and (4) have been met. The $200 petition fee has been paid. The non-signing inventor refuses to sign after presentation with a complete copy of the application papers. The declaration complies with 37 CFR 1.47.

Item (3) has not been satisfied. Applicant states the last known address of Mr. Timothy Lodge as c/o Agrostis Turf Consultancy." This is clearly a business address. Applicants are required to state the last known home address of the non-signing inventor. MPEP 605.03.

CONCLUSION

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

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

1 1 DEC 2009

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of	:	
LODGE, Timothy P., et al.	:	
Application No.: 11/992,560	:	DECISION
PCT No.: PCT/GB2006/003954	:	
Int. Filing Date: 23 October 2006	:	ON PETITION UNDER
Priority Date: 22 October 2005	:	
Docket No.: 2189-000014/US/NP	:	37 CFR 1.47(a)
For: MEASUREMENT OF ROUGHNESS	:	
OF A PLAYING SURFACE	:	

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 12 October 2009.

BACKGROUND

On 28 September 2009, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 12 October 2009, applicants filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

Items (1) (2) and (4) were previously satisfied. The $200 petition fee has been paid. The non-signing inventor refuses to sign after presentation with a complete copy of the application papers. The declaration complies with 37 CFR 1.47.

Item (3) has been satisfied. Applicant states the last known residential address of Mr. Timothy Lodge is 21 Grove Park, Walsham le Willows, Bury St. Edmunds, Suffolk, United Kingdom IP31 3AE.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **18 August 2009**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

11 DEC 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Timothy Lodge
21 Grove Park
Walsham le Willows
Bury St. Edmunds, Suffolk IP31 3AE
United Kingdom

In re Application of
LODGE, Timothy P., et al.
Application No.: 11/992,560
PCT No.: PCT/GB2006/003954
Int. Filing Date: 23 October 2006
Priority Date: 22 October 2005
Docket No.: 2189-000014/US/NP
For: MEASUREMENT OF ROUGHNESS OF A PLAYING SURFACE

Dear Mr. Lodge:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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.
11/992,603	03/26/2008	Mika Hiroe	080079	9330

23850 7590 06/03/2010
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
4th Floor
WASHINGTON, DC 20005

EXAMINER
BEKKER, KELLY JO

ART UNIT	PAPER NUMBER
1781	

MAIL DATE	DELIVERY MODE
06/03/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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June 3, 2010 BC

In re application of	:	DECISION ON REQUEST TO
Mika Hiroe et al.	:	PARTICIPATE IN PATENT
Serial No. 11/992,603	:	PROSECUTION HIGHWAY
Filed: March 26, 2008	:	PROGRAM AND
For: EMULSION COMPOSITION AND	:	PETITION TO MAKE SPECIAL
METHOD OF PREPARING THE SAME	:	UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program filed April 19, 2010.

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 independent 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

(6) Applicant must submit:

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

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

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

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

Any inquiry regarding this decision should be directed to Blaine Copenheaver, Quality Assurance Specialist, at (571) 272-1156.

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

/Blaine Copenheaver/

Blaine Copenheaver
Quality Assurance Specialist
Technology Center 1700

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01 JUN 2009

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In Re Application of MUELLER Application No.: 11/992,623 PCT No.: PCT/EP06/09171 Int. Filing Date: 21 September 2006 Priority Date: 27 September 2005 Attorney Docket No.: BM-214PCT For: REMOTE CONTROLLABLE LOCKING DEVICE FOR A VEHICLE	DECISION

This is a decision on applicant's "Request for Corrected Notice of Acceptance" filed in the United States Patent and Trademark Office (USPTO) on 23 March 2009. This is also responsive to applicant's request for a corrected filing receipt filed on the same date.

On 21 September 2006, applicant filed international application No. PCT/EP06/09171 which claimed a priority date of 27 September 2005 and which designated the United States. Thereafter, on 26 March 2008, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. No Notification of Missing Requirements (Form PCT/DO/EO/905) was issued.

On 23 January 2009, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 March 2006.

DISCUSSION

Section MPEP 1893.03(b) states "An international application designating the U.S. has two stage (international and national) with the filing date being the same in both stages. Often the entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application." *See* 35 U.S.C. 363 and PCT Treaty Article 11(3) (which provides that an international filing date shall be considered the actual filing date in each designated State).

It is further stated in section 1893.03(b) that the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements and it indicates the date of completion of all 35 U.S.C. 371 requirements. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

A review of the USPTO records indicates that the executed declaration was filed on 26 March 2008 and that all of the 35 U.S.C. 371 requirements were complete. The 23 January 2009 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 March 2008, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date

of completion of all 35 U.S.C. 371 requirements. A corrected filing receipt, in response to applicant's 23 January 2009 request, issued on 01 April 2009.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED as MOOT** as a corrected filing receipt issued on 01 April 2009.

The Notification of Acceptance mailed on 23 January 2009 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 March 2008, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements and remains in effect.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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James E. Barlow
Posz Law Group, PLC
10040 South Lakes Drive, Suite 101
Reston, VA 20191

7/3/08

In re Application of	:	DECISION ON REQUEST TO
TADA et al.	:	PARTICIPATE IN PATENT
Application No. 11/992,654	:	PROSECUTION HIGHWAY
Filed: Mar. 27, 2008	:	PROGRAM AND PETITION
Attorney Docket No. 88-002-TN	:	37 CFR 1.102(d)
For: Educational Simulator for Transesophagael Echocardiography	:	

This is a decision on the Request to Participate in Patent Prosecution Highway Program and the petition under 37 CFR 1.102(d), filed May 16, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

The request to participate in the PPH program and petition comply with the above requirements. Receipt of the IDS and a copy of Japanese patent publications are acknowledged. Accordingly, the above-identified application has been accorded "special" status.

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

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

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

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James E. Barlow
Posz Law Group, PLC
10040 South Lakes Drive, Suite 101
Reston, VA 20191

7/3/08

In re Application of	:	DECISION ON REQUEST TO
TADA et al.	:	PARTICIPATE IN PATENT
Application No. 11/992,655	:	PROSECUTION HIGHWAY
Filed: Mar. 27, 2008	:	PROGRAM AND PETITION
Attorney Docket No. 88-001-TN	:	37 CFR 1.102(d)
For: Educational Simulator for Transthoracic Echocardiography	:	

This is a decision on the of Request to Participate in Patent Prosecution Highway Program and the petition under 37 CFR 1.102(d), filed May 16, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

The request to participate in the PPH program and petition comply with the above requirements. Receipt of the IDS and a copy of Japanese patent publications are acknowledged. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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2 3 JUN 2008

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Ware, Fressola, Van Der Sluys & Adolphson, LLP
775 Main Street
P.O. Box 224
Monroe CT 06468

In re Application of	:	
LEVOLA, et al.	:	
Application No.: 11/992,687	:	DECISION ON PETITION
PCT No.: PCT/IB06/02501	:	
Int. Filing Date: 12 September 2006	:	UNDER 37 CFR 1.10(e)
Priority Date: 15 October 2005	:	
Atty. Docket No.: 944-001.178-1-1	:	
For: ILLUMINATION METHOD FOR DISPLAYING	:	
DIFFERENT GRAPHICAL LAYOUTS	:	

This is a decision on applicant's "REQUEST FOR SERIAL NUMBER" filed 06 June 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.10(e) to reconstruct lost papers filed using Express Mail from the United States Postal Service. No petition fee is required.

BACKGROUND

On 12 September 2006, applicant filed international application PCT/IB06/02501, which claimed priority of an earlier application filed 15 October 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 April 2007. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 April 2008.

On 26 March 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by payment of the U.S. basic national fee and a preliminary amendment.

On 06 June 2008, applicant filed the present petition under 37 CFR 1.10(e) accompanied by a complete set of the originally filed application papers.

DISCUSSION

A review of the application file finds applicant's original filing contained therein. As such, it is not necessary to consider the petition under 37 CFR 1.10(e) to accept the copies presently filed as having been filed on 26 March 2008. The papers have been initialed processed and assigned the application serial number 11/992,687.

CONCLUSION

Applicant's petition under 37 CFR 1.10(e) is **DISMISSED as moot**.

This application is being forwarded to the U.S. National stage processing division for continued processing, including the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors and payment of the appropriate surcharge is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

Applicant	: Frank Arndt	: DECISION ON REQUEST FOR
Patent Number	: 7648555	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/992,713	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/27/2008	: 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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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

In re Application of	:	
ADES et al.	:	
Application No.: 11/992,719	:	DECISION
PCT No.: PCT/US2005/027290	:	
Int. Filing Date: 29 July 2005	:	
Priority Date: 19 May 2005	:	
Attorney Docket No.: 14114.0380U2	:	
For: FUNCTIONAL EPITOPES OF	:	
STREPTOCOCCUS PNEUMONIAE PSAA	:	
ANTIGEN AND USES THEREOF	:	

This decision is in response to applicants' submission filed 27 March 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 July 2005, applicants filed international application PCT/US2005/027290 which designated the U.S. and claimed a priority date of 19 May 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 30 November 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 November 2007.

On 27 March 2008, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 27 March 2008.

As to item (2), applicant submitted the petition fee on 27 March 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

17 MAR 2010

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Wenderoth, Lind & Ponack, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, D.C. 20005-1503

In re Application of	:	
INOUE et al.	:	
U.S. Application No.: 11/992,752	:	
PCT No.: PCT/JP2006/320042	:	DECISION
International Filing Date: 29 September 2006	:	
Priority Date: 30 September 2005	:	
Attorney's Docket No.: 2008_0548A	:	
For: ADSORBENTS FOR ADVANCED	:	
GLYCATION ENDPRODUCTS	:	

This decision is issued in response to the "Request for Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495" filed 05 May 2009 (and 20 May 2009) which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 29 September 2006, applicants filed international application PCT/JP2006/320042. The international application claimed a priority date of 30 September 2005. On 06 January 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 March 2008. The published international application included five (5) claims.

On 28 March 2008, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and an executed declaration/power of attorney.

On 08 May 2008, applicants filed a purported English translation of the international application. The English translation of the international application included seven (7) claims.

The application file record shows that on 11 February 2009, a second English translation of the international application was filed. This English translation included five (5) claims.

On 26 February 2009, the DO/EO/US mailed a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying 11 February 2009 as the date of receipt of the 35 U.S.C. 371 requirements. Subsequently, a filing receipt was mailed to applicants. This filing receipt identified the "371(c) DATE" as 11 February 2009.

On 05 May 2009 and 20 May 2009, applicants filed "Request for Corrected Filing Receipt and Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495." Applicant states that an English translation of the international application was submitted on 08 May 2008, not 11 February 2009.

DISCUSSION

37 CFR 1.495(c)(1)(i) requires national stage applicants to file a "translation of the international application, as filed, into the English language." Here, as noted above, the published international application included five (5) claims, while the translation filed 08 May 2008 included seven (7) claims. As set forth in MPEP 1893.01(d) any changes in the translation, however minor, render the translation unacceptable:

> The translation must be a translation of the international application as filed or with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. A translation of less than all of the international application (e.g., a translation that fails to include a translation of text contained in the drawings or a translation that includes a translation of claims amended under PCT Article 19 or 34 but does not include a translation of the original claims) is unacceptable. In addition, a translation that includes modifications other than changes that have been properly accepted under PCT Rule 26 or 91 (e.g., a translation that includes headings that were not present in the international application as originally filed) is unacceptable. A translation of words contained in the drawings must be furnished either in the form of new drawings or in the form of a copy of the original drawings with the translation pasted on the original text matter. See PCT Rule 49.5(d). ... Amendments, even those considered to be minor or to not include new matter, may not be incorporated into the translation. If an amendment to the international application as filed is desired for the national stage, it may be submitted in accordance with 37 CFR 1.121.

Based on the above, the seven (7) translated claims filed 08 May 2008 cannot be accepted as a translation of the claims "as filed" in the international application.

If the translation of 11 February 2009 is not an accurate translation of the international application, applicants **MUST IMMEDIATELY notify of Office of PCT Legal Administration**.

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
(571) 272-3298.

3 JUN 2009

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PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

In re Application of	:	
DARGELAS et al.	:	
Application No.: 11/992,769	:	DECISION
PCT No.: PCT/FR2006/050944	:	
Int. Filing Date: 27 September 2006	:	
Priority Date: 30 September 2005	:	
Attorney Docket No.: 022290.0188PTUS	:	
For: MICROPARTICLES WITH MODIFIED	:	
RELEASE OF AT LEAST ONE ACTIVE PRINCIPLE	:	
AND ORAL PHARMACEUTICAL FORM	:	
COMPRISING SAME	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 20 March 2009 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 27 September 2006, applicants filed international application PCT/FR2006/050944, which designated the United States and claimed a priority date of 30 September 2005. A copy of the international application was communicated from the International Bureau to the USPTO on 05 April 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 March 2008 (30 March 2008 being a Sunday).

On 28 March 2008, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 21 November 2008, the United States Designated/Elected Office (DO/EO/US) issued a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 20 March 2009, applicants filed a petition under 37 CFR 1.47(a) which was

accompanied by, *inter alia*, a petition/fee for a two-month extension of time, a declaration of inventors, a statement of facts by Jody Ann Mazzarese, and a copy of delivery results from the delivery company used by petitioner.

On 28 May 2009, the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/909) according the application both a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 20 March 2009.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(i); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been met.

Item (2) has been met as well. It has been established that Mr. Soula was presented with a copy of the application papers including the specification (declaration of Jody Ann Mazzarese and delivery information). Mr. Soula's conduct constitutes a refusal to sign.

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Although the NOTICE OF ACCEPTANCE OF APPLICATION mailed 28 May 2009 was mailed before the petition under 37 CFR 1.47(a) was decided, it does include the correct 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date and 35 U.S.C. 371 dates and is hereby affirmed.

This application is being forwarded to the Technology Center.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

3 JUN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Gerard Soula
33 rue Nungesser
69330 Meyzieu
France

In re Application of
DARGELAS et al.
Application No.: 11/992,769
PCT No.: PCT/FR2006/050944
Int. Filing Date: 27 September 2006
Priority Date: 30 September 2005
Attorney Docket No.: 022290.0188PTUS
For: MICROPARTICLES WITH MODIFIED RELEASE OF AT LEAST ONE ACTIVE PRINCIPLE AND ORAL PHARMACEUTICAL FORM COMPRISING SAME

Dear Mr. Soula:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

2 1 APR 2008

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38137
ABELMAN, FRAYNE & SCHWAB
666 Third Avenue, 10th Floor
New York, NY 10017

In re Application of	:	
MORELLI *et al*	:	
U.S. Application No.: 11/992,795	:	
PCT No.: PCT/US2005/035345	:	**DECISION ON**
Int. Filing Date: 30 September 2005	:	**PETITION UNDER**
Priority Date: 29 April 2005	:	**37 CFR 1.137(b)**
Attorney Docket No.: 209,615	:	
For: FACE PIECE SEAL CHECK DEVICE	:	

Applicants' petition to revive under 37 CFR 1.137(b) filed on 28 March 2008 is hereby **GRANTED** as follows:

The basic national fee and petition fee has been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was not provided.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

16 JUN 2009

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
HAYASHI, Tsuyoshi, et al.	:	
Application No.: 11/992,851	:	
PCT No.: PCT/JP2006/320163	:	
Int. Filing Date: 03 October 2006	:	DECISION
Priority Date: 04 October 2005	:	
Attorney Docket No.: 136532	:	
For: VEHICLE CONTROLLER AND	:	
CONTROLLING METHOD	:	

This decision is in response to applicant's petition under 37 CFR 1.182 filed in the United States Patent and Trademark Office on 27 March 2009.

BACKGROUND

On 20 March 2009, the Office mailed Notification indicating that applicant had identified the above application as the national phase of two different international applications.

On 27 March 2009, applicant filed this petition under 37 CFR 1.182 to correct the national phase indications in the file.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/JP2006/320163. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/JP2006/320163.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division for further processing consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:	:	
TAKAMURA, Hitoshi, et al.	:	
U.S. Application No.: 11/992,894	:	DECISION ON REQUEST UNDER
PCT No.: PCT/JP2006/320532	:	37 CFR 1.497(d)
International Filing Date: 16 October 2006	:	
Priority Date: 19 October 2005	:	
Attorney's Docket No.: 5267-0104PUS1	:	
For: METHOD AND APPARATUS FOR	:	
HYDROCARBON REFORMING	:	
BASED ON OXYGEN-PERMEABLE	:	
MEMBRANE	:	

This decision is issued in response to the "Response To Notification Of Missing Requirements" filed 19 October 2009, treated herein as a request to correct inventorship under 37 CFR 1.497(d). Applicants have paid the required $130 processing fee.

BACKGROUND

On 16 October 2006, applicants filed international application PCT/JP2006/320532. The application claimed a priority date of 19 October 2005, and it designated the United States. On 26 April 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 April 2008. The published international application identified three inventors for the U.S.: Hitoshi TAKAMURA, Masuo OKADA, and Masayuki OGAWA. A fourth individual, Tomoyuki SAITO was identified as an applicant for all designated states except the United States.

On 31 March 2009, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and a declaration executed by the three inventors of record and by Tomoyuki SAITO.

On 21 August 2009, the United States Designated/Elected Office (DO/EO/US) issued a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497. The Notification indicated that the previously filed declaration was defective because it included Tomoyuki SAITO, who is not an inventor of record herein.

On 19 October 2009, applicants filed the "Response To Notification Of Missing Requirements" treated herein as a request to correct inventorship under 37 CFR 1.497(d). Specifically, the submission requests that Tomoyuki SAITO be added as an additional inventor so as to permit acceptance of the previously filed declaration.

DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicants have filed a declaration that names an inventive entity different than that set forth in the international application (specifically, Tomoyuki SAITO is added as an additional inventor). Accordingly, applicants must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

Applicants have provided the required statement of non-deceptive intent from the person to be added as an inventor (Tomoyuki SAITO) as well as the required processing fee. Requirements (A) and (B) are therefore satisfied.

With respect to requirement (C), the assignee's consent, applicants have submitted statements under 37 CFR 3.73(b) from the two assignees herein, TDK Corp. and Japan Science and Technology Agency, as required. However, applicants have not provided statements executed by an authorized representative of each assignee in which the assignees specifically consent to the requested change, as also required. Until such statements of consent are provided, requirement (C) is not satisfied.

Based on the above, applicants have failed to submit all the requirements of a grantable request under 37 CFR 1.497(d).

CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The inventorship of record herein remains that set forth in the international application, that is, Hitoshi TAKAMURA, Masuo OKADA, and Masayuki OGAWA.

The declaration filed 31 March 2008, which includes Tomoyuki SAITO as an additional inventor, remains defective on the present record for failure to properly identify and be executed by all of the inventors of record herein.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable request, as discussed above and in the MPEP, that is, properly executed statements of consent from the assignees herein.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of: TAKAMURA, Hitoshi, et al. U.S. Application No.: 11/992,894 PCT No.: PCT/JP2006/320532 International Filing Date: 16 October 2006 Priority Date: 19 October 2005 Attorney's Docket No.: 5267-0104PUS1 For: METHOD AND APPARATUS FOR HYDROCARBON REFORMING BASED ON OXYGEN-PERMEABLE MEMBRANE	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Renewed Request Under 37 CFR 1.497(d)." Applicants have previously paid the required processing fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed 18 November 2009. The decision dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to include all requirements of a grantable request. Specifically, applicants had failed to provide a statement of consent to the requested change from the assignees herein.

On 15 January 2010, applicants filed the "Renewed Request Under 37 CFR 1.497(d)" considered herein.

DISCUSSION

As noted in the previous decision, 37 CFR 1.497(d)(3) requires that the assignees' consent to a change of inventorship be submitted in compliance with 37 CFR 3.73(b). 37 CFR 3.73(b)(2)(i) states that a submission may be signed by any person, if the submission sets forth that the person signing is authorized to act on behalf of the assignee. Here, the renewed request is signed by applicants' agent and includes the following statement: "[w]ith authorization from the assignees, the undersigned respectfully indicates that the assignees consent to changing the inventorship to include Mr. Tomoyuki SAITO as a coinventor." This statement, in combination with the previously submitted statements under 37 CFR 3.73(b) from the two assignees herein, TDK Corp. and Japan Science and Technology Agency, satisfies the requirement that the assignee(s) consent to the requested change in inventorship.

Based on the above, applicants have now satisfied the final outstanding requirement for a grantable request under 37 CFR 1.497(d).

CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**. The inventorship of record herein is corrected to add Tomoyuki SAITO as an additional inventor of record.

In view of the above correction, the declaration filed on 31 March 2008 is no longer defective for failure to properly identify and be executed by all of the inventors of record herein. The declaration is therefore now acceptable in compliance with 37 CFR 1.497(a) and (b).

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 31 March 2008.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

\United States Patent and Trademark Office

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS VACUUM, INC..
2041 MISSION COLLEGE BOULEVARD
SUITE 260
SANTA CLARA CA 95054

In re Application of	:	
Timms et al.	:	
Application No.: 11/992,906	:	
PCT No.: PCT/GB2006/003483	:	
Int. Filing Date: 21 September 2006	:	DECISION
Priority Date: 07 October 2005	:	
Attorney Docket No.: M05B169	:	
For: Method Of Treating A Gas Stream	:	

This is in response to the declaration of the inventors filed on 16 July 2009, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 21 September 2006, claimed an earlier priority date of 07 October 2005, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 19 April 2007. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 April 2008. Applicants filed, *inter alia*, the basic national fee on 28 March 2008.

On 17 February 2009, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

Counsel has submitted a Declaration signed by the "legal representative" of deceased inventor Peter Leslie TIMMS. 37 CFR 1.42 provides in part that

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declaration provides citizenship, residence and postal address information for the legal representative, and also provides the citizenship of the deceased joint inventor. The declaration has been signed by the legal representative and the surviving joint inventor. This declaration is accepted under 37 CFR 1.42 for purposes of compliance with 37 CFR 1.497(a) and (b). The power of attorney in favor of the practitioners associated with Customer Number 71134 is accepted.

DECISION

The declaration is **ACCEPTED** under 37 CFR 1.42..

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **16 July 2009**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
PARK, SEUNG WOOK et al	:	DECISION ON REQUEST TO
Application No. 11/992,942	:	PARTICIPATE IN PATENT
Filed: April 01, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 46500-000565/US/NPB	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 10, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 0 9 2010

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re application of Katsuhiko Takeuchi et al. Application No. 11/992,950 Filed: April 2, 2008 For: VEHICLE DOOR FRAME AND METHOD FOR MAKING THE SAME	: : : : : :	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed February 26, 2010, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must disclose an eligible relationship to one or more PCT applications filed in the JPO, EPO or USPTO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the PCT application(s) latest international work product (the written opinion or the IPER) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the PCT application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest international work product from the PCT application containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the PCT examiner in the international work product along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

In light of the petition being properly submitted via EFS-Web as is required, and the preliminary amendment filed April 2, 2008, the request to participate in the PPH program complies with the above requirements, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision as soon as any pre-exam processing has been completed.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 3/7/10

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
PARK, SEUNG WOOK et al	:	DECISION ON REQUEST TO
Application No. 11/992,956	:	PARTICIPATE IN PATENT
Filed: April 02, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 46500-00284/US/NPC	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 26, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
PARK, SEUNG WOOK et al	:	DECISION ON REQUEST TO
Application No. 11/992,958	:	PARTICIPATE IN PATENT
Filed: April 02, 2008	:	PROSECUTION HIGHWAY
Attorney Docket No. 46500-00284/US/NPB	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 26, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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2 9 APR 2008

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of ORTNER et al. Application No.: 11/992,963 PCT No.: PCT/IB06/01857 Int. Filing: 05 July 2006 Priority Date: 05 July 2005 Attorney Docket No.: 6170-000026/US For: USE OF A PHOTOSENSITIZING AGENT IN THE TREATMENT OR PREVENTION OF AN INFLAMMATION-ASSOCIATED DISORDER IN THE GASTROINTESTINAL TRACT OF A MAMMAL	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 02 April 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the application file reveals that the basic national fee of $155 has now been provided. The required petition fee of $770 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of	:	
UCHINO, et al.	:	
U.S. Application No.: 11/992,967	:	
PCT No.: PCT/JP06/322653	:	DECISION ON PETITION
Int. Filing Date: 14 November 2006	:	
Priority Date: 14 November 2005	:	UNDER 37 CFR 1.182
Attorney's Docket No.: SON-3697	:	
For: PIXEL CIRCUIT AND DISPLAY APPARATUS	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.182" filed 07 August 2008 in the United States Patent and Trademark Office (USPTO) to correct the error in the Transmittal Letter (Form PTO-1390) filed 02 April 2008. The petition is being treated under 37 CFR 1.182 and applicant has provided payment of the $400.00 petition fee.

BACKGROUND

On 09 June 2008, applicant was mailed a communication indicating a discrepancy between the international application number listed on the Form PTO-1390 and the other filed documents including the application data sheet and executed declaration. Applicant was afforded two months to file a petition under 37 CFR 1.182 to correct the error and associated the present application under 35 U.S.C. 371 with the correct international application number.

On 07 August 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The identifying information provided on the transmittal letter filed by applicant on 02 April 2008, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/JP06/322653. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 02 April 2008 sufficiently identified international application PCT/JP06/322653. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 11/992,967 will be treated as a U.S. national stage submission for PCT/JP06/322653.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of U.S. application number 11/992,967 as the U.S. national stage application of PCT/JP06/322653; specifically, the preparation and mailing of a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating that the present application is the U.S. National stage entry for international application PCT/JP06/322653 with a date of **02 April 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of	:	
LAROSE, et al.	:	
Application No.: 11/992,997	:	
PCT No.: PCT/US2006/021544	:	REQUEST FOR STATUS
Int. Filing Date: 02 June 2006	:	
Priority Date: 05 October 2005	:	UNDER 37 CFR 1.42
Attorney Docket No.: 76390-PCT-US/JPW/JL	:	
For: AXIAL FLOW PUMP WITH MULTI-GROOVED ROTOR	:	

This decision is in response to applicant's communication filed 14 May 2009 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 02 June 2006, applicant filed international application PCT/US2006/021544 which claimed a priority date of 05 October 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 April 2008.

On 01 April 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by payment of the requisite basic national fee and a preliminary amendment.

On 14 May 2009, applicant filed the declaration discussed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The filed declaration is executed by Palanivelu Thyagarajan as legal representative to the estate of deceased joint inventor Kartikeyan Trichi. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one of the individuals. In order to comply with 37 CFR

1.497(b), this information must be provided for both the deceased inventor and the legal representative:

> If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

In addition, the Manual of Patent Examining Procedure (MPEP) Section 201.03 and 605.04(a) state that:

> 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. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The present combined declaration and power of attorney contains two pages of "Page 4." This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b).

Lastly, the residence and post office address for inventor Daniel G. White contains an un-initialed and undated alteration. (See MPEP §605.04(a) and 37 CFR 1.52(c))

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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

2 8 OCT 2009

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Application of	:	
LAROSE, et al.	:	
Application No.: 11/992,997	:	
PCT No.: PCT/US2006/021544	:	REQUEST FOR STATUS
Int. Filing Date: 02 June 2006	:	
Priority Date: 05 October 2005	:	UNDER 37 CFR 1.42
Attorney Docket No.: 76390-PCT-US/JPW/JL	:	
For: AXIAL FLOW PUMP WITH MULTI-	:	
GROOVED ROTOR	:	

In a decision mailed by this Office on 28 July 2009, the declaration filed by applicant on behalf of deceased inventor Kartikeyan Trichi was dismissed for failure to provide a compliant oath or declaration under 37 CFR 1.497.

On 29 September 2009, applicant filed a response to the previous decision that was accompanied by a revised declaration. The response is considered timely filed pursuant to 37 CFR 1.8. The declaration submitted on 29 September 2009 identifies the deceased inventor and states the deceased inventor's country of citizenship and residence, is signed by Palanivelu Thyagarajan as legal representative to the estate of deceased joint inventor Kartikeyan Trichi, provides the legal representative's country of citizenship and residency and lists, and has been signed by, all of the joint inventors on the application. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 02 June 2006 under 35 U.S.C. 363 and will be given a date of **29 September 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

COPY MAILED

AUG 07 2009

OFFICE OF PETITIONS

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

Applicant: Cheema et al.
Appl. No.: 11/993,026
International Filing Date: June 12, 2006
Title: PROCESS FOR THE PREPARATION OF SULFONIC ACID SALTS OF OXABISPIDINES
Attorney Docket No.: 133087.25301(101880-1PUS)
Pub. No.: US 2008/0200673 A1
Pub. Date: August 21, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 21, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material error in containing various mistranscriptions of superscripts and other errors resulting from faulty optical character recognition.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." (Emphasis added) A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The errors due to faulty optical character recognition are, in this case, not Office error. The errors are 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

[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).

inclusion of any desired amendments into the text of the originally-filed specification and drawings will only occur if applicant files a request for republication under 37 CFR 1.221(a). They will not be corrected by the Office in a corrected publication under 37 CFR 1.221(b)."

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on October 21, 2008, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of	:	
WILLIAMS, et al.	:	
Application No.: 11/993,037	:	
PCT No.: PCT/US2006/024776	:	DECISION ON PETITION
Int. Filing Date: 26 June 2006	:	
Priority Date: 27 June 2005	:	UNDER 37 CFR 1.181
Attorney Docket No.: 22188/07382	:	
For: TUBE FITTING	:	

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 09 June 2009 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 26 June 2006, applicant filed international application PCT/US2006/024776, which claimed priority of an earlier application filed 27 June 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 27 December 2007.

On 19 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a signed declaration of the inventors and a preliminary amendment.

On 27 October 2008, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant that the declaration filed 19 December 2007 was defective and of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 16 December 2008, applicant responded with a declaration of the inventors.

On 26 May 2009, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the filed declaration was defective as it had been compiled from numerous declarations. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or the amount of extendable time from the mail date of the Form PCT/DO/EO/905 to file a proper reply.

On 09 June 2009, applicant filed the present petition arguing that a compliant response was filed on 16 December 2008 and indicating that the Form PCT/DO/EO/916 should be vacated.

DISCUSSION

The Form PCT/DO/EO/916 is poorly written as it does indicate that "Applicant's response filed 03/172009 is hereby acknowledged." However, regarding the submission of 16 December 2008, the list of items filed does show "Oath or Declaration filed on 12/16/2008." It is this declaration to which the form is directed when indicating that the document does not comply with 37 CFR 1.497(a) and (b).

The Manual of Patent Examining Procedure (MPEP) section 201.03 explains that:

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. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The declaration filed 16 December 2008 does not comply. The document is six pages in length. Each page is the front page of a declaration with a box marked indicating that 3 additional sheets are attached. Included in these sheets are separate sheets listing and executed by Peter C. Williams and George A. Carlson. Thus, at a minimum it is clear that these inventors executed separate declarations which have not been submitted in their complete form.

Applicant has not provided a timely response and the application is therefore abandoned as to the National stage in the United States.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.181 is **DISMISSED**. The application is abandoned as to the National stage in the United States.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for the preparation and mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

In re Application of	:	
WILLIAMS, et al.	:	
Application No.: 11/993,037	:	
PCT No.: PCT/US2006/024776	:	DECISION ON PETITION
Int. Filing Date: 26 June 2006	:	
Priority Date: 27 June 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 22188/07382	:	
For: TUBE FITTING	:	

The petition to revive under 37 CFR 1.137(b) filed 23 October 2009 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now submitted a compliant, executed declaration of the inventors. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 26 June 2006 under 35 U.S.C. 363 and will be given a date of **23 October 2009** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

20457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

In re Application of
IWASE *et al*
Application No.: 11/993,065
PCT No.: PCT/JP2006/312719
Int. Filing Date: 26 June 2006
Priority Date: 27 June 2005
Attorney Docket No.: 512.48082X00
For: PROCESS FOR PRODUCTION OF LIQUID DEVELOPER, AND LIQUID DEVELOPER PRODUCED BY THE PROCESS

DECISION

This decision is in response to the papers filed 19 December 2007.

BACKGROUND

On 19 December 2007, applicants filed papers to enter the national stage of PCT/JP2006/312719 which was accompanied by, *inter alia*, an executed declaration.

DISCUSSION

A review of the subject application shows that the name of the first inventor is listed as Koji IWASE on the declaration provided 19 December 2007. However, the inventor is recorded as Takashi IWASE on the international publication (WO 2007/000974).

In a paper titled "Petition Under 37 C.F.R. §1.48(f)(I) and §1.497(d) Correction of Spelling of Inventors Name" applicants' state that "the English spelling of the first inventor's name . . . is incorrect. The correct spelling . . . is Koji IWASE. This error occurred in transliteration from Japanese characters when preparing the PCT request."

Section 1893.01(e) of the Manual of Patent Examining Procedure (MPEP) states that where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.182 is not required. In such case, the Office should simply be notified of the error.

Applicants' explanation meets the requirements of the MPEP. The processing fee was not charged, as such, no refund is warranted.

A transliteration error was made in the international application with regards to the first-named inventor, Koji IWASE.

CONCLUSION

The declaration filed 19 December 2007 is deemed to be in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 June 2006 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 19 December 2007.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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2 2 JAN 2010

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of IWASE et al	:	
U.S. Application No.: 11/993,068	:	
PCT Application No.: PCT/JP2006/312720	:	
Int. Filing Date: 26 June 2006	:	
Priority Date Claimed: 27 June 2005	:	DECISION
Attorney Docket No.: 512.48083X00	:	
For: PROCESS FOR PRODUCTION OF LIQUID DEVELOPER, AND LIQUID DEVELOPER PRODUCED BY THE PROCESS	:	

This is in response to applicant's petition under 37 CFR 1.497(d) filed 19 December 2007.

BACKGROUND

On 26 June 2006, applicant filed international application PCT/JP2006/312720, which claimed priority of an earlier Japan application filed 27 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 04 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 27 December 2007.

On 19 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the instant petition under 37 CFR 1.497(d).

DISCUSSION

MPEP 1893.01(e) states in relevant part,

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name

> indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error. (Emphasis added.)

The petition states that the given name of the first inventor was incorrectly stated as "Takashi" in the international application due to a transliteration error. Therefore, a petition to correct inventorship is not required. Applicant has supplied sufficient notice of the error to the Office.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED AS MOOT.

The application has an International Filing Date under 35 U.S.C. 363 of 26 June 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 December 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
KAKINAMI, TOSHIAKI	:	DECISION ON REQUEST TO
Application No. 11/993,104	:	PARTICIPATE IN PATENT
Filed: December 19, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. **Q105701**	:	PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the PCT Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 15, 2010 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PCT-PPH pilot program and petition to make special require:

(1) The U.S. application be (a) a national stage entry of the corresponding PCT application, or (b) a national stage entry of another PCT application which claims priority to the corresponding PCT application, or (c) a national stage application that claims domestic/foreign priority to the corresponding PCT application, (d) a national application which forms the basis for the priority claim in the corresponding PCT application, or (e) a continuation application of the U.S. application which satisfies one of the above (a) to (d) scenarios.
(2) A copy of the latest international work product (WO/ISA, WO/IPEA, or IPER) in the corresponding PCT application(s) which indicates at least one claim in the PCT application has novelty, inventive step, and industrial applicability.
(3) A copy of all claims which were indicated as having novelty, inventive step and industrial applicability in the corresponding PCT application(s).
(4) English translations of the documents in (2) and (3) (if the documents are not in the English language).
(5) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the claims which were indicated as having novelty, inventive step, and industrial applicability in the corresponding PCT application(s).
(6) Examination of the U.S. application has not begun;

(7) An information disclosure statement listing the documents cited in the international work products (ISR, WO/ISA. WO/IPEA, IPER) of the corresponding PCT application(s) and
(8) The petition fee under 37 CFR 1.17(h).

The request to participate in the PCT-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 Ken 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 A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

2 4 SEP 2008

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United States Patent and Trademark Office
Washington, D.C. 20231
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
BERGE, Bruno, et al.	:	DECISION ON REQUEST
U.S. Application No.: 11/993,144	:	FOR WITHDRAWAL AS
PCT No.: PCT/EP2006/063524	:	ATTORNEY OF RECORD
Int. Filing Date: 23 June 2006	:	
Priority Date: 23 June 2005	:	
Attorney Docket No.: 042098-0126	:	
For: METHOD OF MANUFACTURING AN	:	
ELECTROWETTING-BASED VARIABLE	:	
-FOCUS LENS	:	

This decision is in response to the "Withdrawal Of Attorney Of Record And Change Of Correspondence Address" filed 27 June 2008.

The criteria for effecting a proper withdrawal of attorney are set forth in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

> In the event that a notice of withdrawal is filed by an attorney or agent of record, the file will be forwarded to the appropriate official for decision on the request. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of himself or herself and another. ...
>
> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between *approval* of the withdrawal and the latter of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action.

Attorney Rouget F. Henschel has provided a clear indication that the request for withdrawal is being made on behalf of himself and all other attorneys/agents associated with Customer Number 22428.

There is no pending Office communication in this application for which the time period for response will expire in the next 30 days.

Because all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with, the request for withdrawal as attorney of record is appropriately **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including updating USPTO records to remove above-named counsel as attorney of record and updating the correspondence address herein.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 271-3296
Fax: (571) 273-0459

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17 SEP 2008

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P.O. Box 1450
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NEC CORPORATION OF AMERICA
6535 N. STATE HWY 161
IRVING TX 75039

In re Application of:	:	
SHIMOBAYASHI, Shinya	:	
U.S. Application No.: 11/993,174	:	DECISION ON PETITION
PCT Application No.: PCT/JP2006/313265	:	(37 CFR 1.182)
International Filing Date: 04 July 2006	:	
Priority Date: 06 July 2005	:	
Attorney's Docket No.: J-07-0046	:	
For: MOBILE COMMUNICATION	:	
SYSTEM USING MOBILE	:	
TERMINAL AND HANDOVER	:	
CONTROL METHOD	:	

This decision is issued in response to applicant's "Request To Correct International Application Number" filed 22 January 2008, and supplemented on 15 September 2008, treated herein as a petition under 37 CFR 1.182. Applicant has submitted the required $400 petition fee.

BACKGROUND

On 04 July 2006, applicant filed international application PCT/JP2006/313265. The international application claimed a priority date of 06 July 2005, and it designated the United States. On 11 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 06 January 2008.

On 19 December 2007, applicant filed papers to initiate a U.S. national stage application using the EFS-Web electronic filing system. This submission included, among other materials, an executed declaration, an English translation of the international application, a preliminary amendment, copies of two IB forms (a "Notification Concerning Submission Or Transmittal Of Priority Document" and a "Second And Supplementary Notice Informing The Applicant Of The Communication Of The International Application"), and payment of the basic national fee.

The declaration and the IB forms filed by applicant specifically identified the international application number as PCT/JP2006/313265. However, as part of the bibliographic information provided during the electronic filing process, applicant identified the international application number as PCT/JP2006/004628.

On 22 January 2008, applicant filed the "Request To Correct International Application Number" considered herein as a petition under 37 CFR 1.182 to correct the error in the international application number identified during the electronic filing of the present national stage application.

On 15 September 2008, applicant filed a supplement to the petition that included the required petition fee.

DISCUSSION

As set forth above, the data entered by applicants during the electronic filing process incorrectly identified the international application to which the present national stage filing was directed. Correction of this error is required before the materials filed 19 December 2007 can be treated as having been directed to international application PCT/JP2006/313265, as necessary to avoid abandonment of this international application with respect to the United States.

In the present petition, applicants confirm that the identification of international application PCT/JP2006/004628 during the electronic filing process was the result of an inadvertent error and that the correct international application herein is PCT/JP2006/313265. A review of the filed materials confirms that the correct international application number was indicated thereon (for example, on the declaration and the IB forms). Finally, the supplement to applicant's petition included payment of the required petition fee.

The present submission satisfies the requirements for a grantable petition to correct the inadvertent error in the international application number identified during the electronic filing process. Accordingly, the materials filed herein on 19 December 2007 will be treated as having been directed to international application PCT/JP2006/313265.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The present application will be treated as the U.S. national stage of PCT/JP2006/313265.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 19 December 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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P.O. Box 1450
Alexandria, VA 22313-1450
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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JUL 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,638,340	:	
Issue Date: December 19, 2007	:	
Application No. 11/993,214	:	ON PETITION
Filed: December 19, 2007	:	
Attorney Docket No. TOYA117.011APC	:	

This is a decision on the petition filed May 19, 2010, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/993,216		Elad I. Levy	POWER TEN-001	4844

EXAMINER

ART UNIT	PAPER NUMBER
3738	

MAIL DATE	DELIVERY MODE
05/21/2009	PAPER

7590 05/21/2009
Jennifer Meredith
Lippes Mathias Wexler Friedman LLP
665 Main Street
Suite 300
Buffalo, NY 14203

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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ROBERTS, MLOTKOWSKI & HOBBES
7918 Jones Branch Drive, Suite 500
McLean, VA 22102

JAN 3 0 2008

In re Application of	:	DECISION ON REQUEST TO
Yoshikatsu MIZUKAMI et al	:	PARTICIPATE IN PATENT
Application No. 11/993220	:	PROSECUTION HIGHWAY
Filed: December 19, 2007	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 743030-15	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 21, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kathryn Gorgos
TQAS TC 1700

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18 JUN 2008

Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

In re Application of	:	
HAMMOND, William Alexander	:	
U.S. Application No.: 11/993,235	:	
PCT No.: PCT/AU05/00925	:	DECISION ON PETITION
Int. Filing Date: 24 June 2005	:	UNDER 37 CFR 1.47(b)
Priority Date: None	:	
Attorney Docket No.: 2944-144	:	
For: AIR SUSPENSION SYSTEM	:	
	:	

This decision is in response to applicant's "Petition Pursuant to 37 Rule 1.47(b)" filed 18 March 2008 to accept the application without the signature of the sole inventor, William Alexander Hammond. The $200 petition fee has been submitted.

BACKGROUND

On 24 June 2005, applicant filed international application PCT/AU05/00925. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 December 2007.

On 20 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 18 March 2008, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the

requirements of items (1), (3), (4) and (6). However, items (2) and (5) have not been satisfied.

Applicant here has submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

A review of the present petition reveals that applicant has not satisfied the item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, drawings, and oath/declaration to William Alexander Hammond. No documentary evidence to support the refusal or the attempt was provided in the petition.

In order to meet the requirements of 37 CFR 1.47(b) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to William Alexander Hammond and when such papers were sent and that William Alexander Hammond has subsequently refused to execute the application. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, electronic mailings, telegrams, etc., should be supplied with the declaration.

Regarding item (3), applicant has provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding Item (4), an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided. Item (4) is therefore satisfied.

Regarding item (5), MPEP section 409.03(f) states the following:

> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP §324).

Petitioner here has provided an assignment executed by the nonsigning inventor. The assignment transfers the inventor's right to patents in all countries to the 37 CFR 1.47(b) applicant (Ride & Glide Pty Ltd.) with respect to international application no. PCT/AU05/00925. This submission satisfies the assignment requirement. However,

petitioner has not submitted the required statement under 37 CFR 3.73. Until such statement is provided, item (5) is not satisfied.

Regarding item (6), the petition includes the required express statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is therefore satisfied.

For the reasons stated above, it would not be appropriate to accept the application without the signature of William Alexander Hammond under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

1 7 NOV 2008

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Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

In re Application of	:	
HAMMOND, William Alexander	:	
U.S. Application No.: 11/993,235	:	
PCT No.: PCT/AU05/00925	:	DECISION ON PETITION
Int. Filing Date: 24 June 2005	:	UNDER 37 CFR 1.47(b)
Priority Date: None	:	
Attorney Docket No.: 2944-144	:	
For: AIR SUSPENSION SYSTEM	:	
	:	

This decision is in response to applicant's "Renewed Petition under 37 Rule 1.47(b)" filed 15 August 2008 to accept the application without the signature of the sole inventor, William Alexander Hammond.

BACKGROUND

On 24 June 2005, applicant filed international application PCT/AU05/00925. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 December 2007.

On 20 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 18 March 2008, applicant filed a petition under 37 CFR 1.47(b). In a decision dated 18 June 2008, applicant's petition was dismissed without prejudice.

On 15 August 2008, applicant filed a renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the

parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1), (3), (4), (5) and (6). However, item (2) has not been satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Where a refusal of the inventor to sign the application papers is alleged, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, applicant has submitted a declaration executed by Trevor Noel Beadle, and exhibits thereto, as evidence of the nonsigning inventor's refusal to execute the application documents. However, applicant has not provided firsthand evidence of the prerequisite to asserting a refusal, that is, that "a copy of the application papers (specification, including claims, drawings, and oath or declaration)" was provided to the nonsigning inventor prior to the refusal. Trevor Noel Beadle states that "I was personally aware that the inventor William A. Hammond had reviewed a copy of the International Patent Application . . . I concluded that it was unnecessary to present the identical specification again with the Declaration to be signed." (It is noted that only a copy of the declaration and assignment documents were sent to the nonsigning inventor on 04 October 2007 and 25 October 2007.) Because applicant has not provided documentary evidence that this prerequisite has been performed, they have failed to satisfy item (2) of the requirements for a grantable petition under 37 CFR 1.47(a).

Regarding item (5), MPEP section 409.03(f) states the following:

> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP §324).

Petitioner here has provided an assignment executed by the nonsigning inventor. The assignment transfers the inventor's right to patents in all countries to the 37 CFR 1.47(b) applicant (Ride & Glide Pty Ltd.) with respect to international application no. PCT/AU05/00925. This submission satisfies the assignment requirement. Additionally, petitioner has submitted the required statement under 37 CFR 3.73. Item (5) is satisfied.

For the reasons stated above, it would not be appropriate to accept the application without the signature of William Alexander Hammond under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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0 3 FEB 2009

Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

In re Application of
HAMMOND, William Alexander
U.S. Application No.: 11/993,235
PCT No.: PCT/AU05/00925
Int. Filing Date: 24 June 2005
Priority Date: None
Attorney Docket No.: 2944-144
For: AIR SUSPENSION SYSTEM

DECISION ON PETITION
UNDER 37 CFR 1.47(b)

In a decision mailed by this Office on 17 November 2008, the petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted adequate evidence that the nonsigning inventor had received a copy of the complete application papers and refused to execute application.

On 15 January 2009, petitioner filed the renewed petition considered herein. The renewed petition is accompanied by a statement from Trevor Noel Beadle, with supporting documents, which provides an acceptable showing that the non-signing inventor has been provided with a copy of the present application and the declaration, and that the inventor has refused to sign the declaration.

The renewed petition under 37 CFR 1.47(b) is **GRANTED**. The application is accepted without the signature of nonsigning inventor William Alexander Hammond.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the renewed petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 18 March 2008.

Anthony R

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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Commissioner for Patents
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Alexandria, VA 22313-1450
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0 3 FEB 2009

William Alexander Hammond,
17 Robin Hood Way
Drouin, Victoria 3818
Australia

In re Application of
HAMMOND, William Alexander
U.S. Application No.: 11/993,235
PCT No.: PCT/AU05/00925
Int. Filing Date: 24 June 2005
Priority Date: None
Attorney Docket No.: 2944-144
For: AIR SUSPENSION SYSTEM

Dear Mr. Hammond:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony R

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration

Counsel of Record:
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

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07 JAN 2008

24737
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of :
ALSAFADI, Yasser :
Application No.: 11/993,268 :
PCT No.: PCT/IB2006/051965 :
Int. Filing Date: 19 June 2006 :
Priority Date: 20 June 2005 :
Attorney's Docket No.: 001405US2 : **DECISION**
For: A SYSTEM AND METHOD FOR :
TRANSFERRING IMAGES AMONG :
SPECTRUM AGILE RADIO DEVICES :
WITHOUT RETRANSMITTING :
IMAGES :

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

BACKGROUND

On 20 December 2007, applicant filed papers using the EFS-Web system to enter the national stage of PCT/IB2006/051965 at 13:47:58 using attorney docket number 001405US2. Fees totaling $1,220.00 were provided. This application was given U.S. application number 11/993,268.

A second set of national stage papers for PCT/IB2006/051965 was filed using the EFS-Web system at 13:58:41 on the same day using the same attorney docket number. The second filing was denoted as U.S. application number 11/993,275. No fees were paid in the second application.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/IB2006/051965. The end result for an international application designating the United States of America is a single U.S. national stage application.

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only; thus, only one national stage application may develop from an international application. Both filings on 20 December 2007 indicate that the filing is a

"U.S. National Stage under 35 USC 371." of PCT/IB2006/051965. No conflicting instructions appear in the application papers.

Therefore, the submission of two sets of national stage papers to enter the United States was improper.

CONCLUSION

Both applications will be merged into one national stage application for PCT/IB2006/051965 denoted as U.S. application No. **11/993,268**.

Applicant must use only U.S. application No. **11/993,268** for all correspondence to the national stage application of PCT/IB2006/051965. Applicant is advised that U.S. application No. 11/993,275 is no longer a valid U.S. National stage application.

This application is being forwarded to the Office of Patent Application Processing for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

15 AUG 2008

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GLOBAL PATENT GROUP - TPL
Ms. LaVern Hall
10411 Clayton Road, Suite 304
ST.LOUIS MO 63131

In re Application of SETTY et al. Application No.: 11/993/283 PCT No.: PCT/IB07/02315 Int. Filing Date: 10 August 2007 Priority Date: 14 August 2006 Attorney Docket No.:TORO03 P-302 For: PHARMACEUTICAL COMPOSITIONS OF DULOXETINE	DECISION ON PETITION under 37 CFR 1.497(d)

This is a decision on applicant's' petition under 37 CFR 1.48(a) to add inventor's names, treated as a petition under 37 CFR 1.497(d), filed on 13 May 2008 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 20 December 2007, applicant filed a Transmittal Letter concerning a submission under 35 U.S.C. 371 directed to international application PCT/IB07/02315.

On 28 January 2008, applicant filed a declaration identifying and executed by three of the five inventors listed on the published international application.

On 15 May 2008, applicant filed a submission with a request under 37 CFR 1.48(a) to add Umesh Setty and Rakesh K. Sheth as inventors.

DISCUSSION

At the outset, it is noted that 37 CFR 1.48(a) is directed to non-provisional applications. A national stage application is not considered a non-provisional application until the requirements of 35 U.S.C. 371 are complete. Thus, a petition under 37 CFR 1.48(a) does not apply to the instant application at this time. Such request is treated as a petition under 37 CFR 1.497(d)[1], to

[1] Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named

correct an inventive entity if different from the inventive entity identified in the international application. A review of the published international application reveals that Umesh Setty and Rakesh K. Sheth were identified as inventors. Therefore, applicant's request to add Umesh Setty and Rakesh K. Sheth as inventors is dismissed as moot.

The declarations submitted on 28 January and 13 May 2008 are unacceptable and not in compliance with 37 CFR 1.497(a) and (b) because they are incomplete declarations. The declaration filed on 28 January 2008 is unacceptable because inventors Umesh Setty and Rakesh K. Sheth were not identified on this declaration but were identified as inventors in the published international application. The declaration submitted on 13 May 2008 is unacceptable because is appears to be a supplemental page only. These declarations do not identify all the inventors listed on the published international application and do not provide their respective citizenship, residence and mailing addresses. Thus, the declarations are not in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.497(d) to Correct Inventors in the above-captioned application is **DISMISSED AS MOOT**.

For the reasons set forth above, the declarations, submitted on 28 January and 13 May 2008, are unacceptable. Applicant must submit a new declaration, in compliance with 37 CFR 1.497(a) and (b), identifying all the inventors and providing their respective citizenship, residence and mailing addresses.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that the declarations are not in compliance with 37 CFR 1.497(a) and (b) and that a new declaration is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

cc: PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P.O. BOX 2567
GRAND RAPIDS, MI 49501

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inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

2 5 MAR 2009

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PATENT CENTRAL LLC
Stephan A. Pendorf
1401 Hollywood Boulevard
Hollywood FL 33020

In re Application of	:	
BADINO et al.	:	
Application No.: 11/993,398	:	DECISION ON
PCT No.: PCT/EP2006/000013	:	
Int. Filing Date: 03 January 2006	:	PETITION UNDER
Priority Date: 31 January 2005	:	
Attorney Docket No.: 3926-298	:	37 CFR 1.137(b)
For: OBJECT DETECTION ON A PIXEL	:	
PLANE IN A DIGITAL IMAGE SEQUENCE	:	

This decision is in response to applicants' submission filed 20 December 2007.

BACKGROUND

On 03 January 2006, applicants filed international application PCT/EP2006/000013 which designated the U.S. and claimed a priority date of 31 January 2005. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 August 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 July 2007.

On 20 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a petition under 37 CFR 1.137(b).

On 23 January 2009, applicants filed a declaration of inventors.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basis national fee on 20 December 2007.

As to item (2), applicant submitted the petition fee on 20 December 2007.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 23 January 2009 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

16 MAR 2010

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Alexandria, VA 22313-1450
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HUSCH BLACKWELL SANDERS LLP
190 Carondelet Plaza
Suite 600
ST. LOUIS MO 63105

In re Application of KIM et al. Application No.: 11/993,543 PCT No.: PCT/KR06/02424 Int. Filing Date:22 June 2006 Priority Date: 22 June 2005 Attorney Docket No.: 59388.2 For: BETA-SHAPE: COMPACT STRUCTURE FOR TOPOLOGY AMONG SPHERES DEFINING BLENDING SURFACE OF SPHERE SET AND METHOD OF CONSTRUCTING SAME	DECISION

This is a decision on applicant's response to the Notification of Missing Requirements filed on 28 January 2010.

On 21 December 2009, a Notification of Missing Requirements was mailed to applicant indicating that the text in the drawings had not been properly translated and that a $130 surcharge was required for submitting an English translation of the international application after the thirty month period.

On 28 January 2010, applicant filed the instant response indicating that a review of the drawings revealed that the text was provided in English. Applicant explained that the term "Voronoi" used in the drawings is the name of the inventor of the "Voronoi" diagram. Applicant's request to accept the drawings is accepted. No processing fee for filing the English translation after the thirty month period is required.

The 21 December 2009 Notification of Missing Requirements is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286

2 6 FEB 2008

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PRAXAIR, INC.
LAW DEPARTMENT - M1 557
39 OLD RIDGEBURY ROAD
DANBURY CT 06810-5113

In re Application of	:	
Fukubayashi	:	
Application No.: 11/993,736	:	
PCT No.: PCT/US06/23877	:	
Int. Filing Date: 20 June 2006	:	DECISION
Priority Date: 20 June 2005	:	
Attorney Docket No.: 21410-US-WO	:	
For: Laser Cladding On Low Heat Resistant Substrates	:	

The petition to revive under 37 CFR 1.137(b) filed on 21 December 2007 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee. The petition fee is being charged to Deposit Account No. 16-2440, per the Transmittal Letter filed on 21 December 2007. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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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.
11/993,768	03/03/2008	Vincenzo Mauro	6126	9693

7590 01/28/2010
SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING, MD 20910

EXAMINER

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
01/28/2010	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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.
11/993,803		Naotsugu Ueda	04473/012001	1040

22511 7590 03/26/2008
OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

EXAMINER

ART UNIT	PAPER NUMBER
3745	

NOTIFICATION DATE	DELIVERY MODE
03/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@oshaliang.com
buta@oshaliang.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSHA LIANG, LLP
1221 McKinney St., Suite 2800
Houston, Texas 77010

In re Application of
Naotsugu Ueda et al.
Application No.: 11/993,803
Filed: December 21, 2007
Attorney Docket No.: 04473/012001

For : FLOW RATE MEASURING DEVICE

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

MAR 26 2008

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 11 February 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH pilot program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
    b. Submit a claims correspondence table in English;
4. Examination of the U.S. application has not begun;

5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary and should be indicated on the request/petition form;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH program and petition ***fails to include***:

(3)b. A proper claims correspondence table in English having a complete listing of all pending claims. It is noted that pending new claims 10-17 were not listed. It is further noted, however, that the instant claims 10-17 correspond to allowed claims 3, 6, 7, 7, 8, 8, 9, 9, respectively, in the JPO application.

(5)a.iii. Documentation of prior office action that the JPO application is a first action allowance and no office action from the JPO is necessary. It was determined via the Dossier Access System, however, that the JPO application is in fact a first action allowance and no office action from the JPO is necessary.

Because the instant US application has been determined to meet the requirements 1-7 above for participation in the Patent Prosecution Highway (PPH) program, the petition under 37 CFR 1.102(d), to make the above-identified application special ***is hereby GRANTED***.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Day
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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MICHAEL R HENSON & ASSOCIATES LLC
5613 DTC PARKWAY
SUITE 240
GREENWOOD VILLAGE CO 80111

COPY MAILED

SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Curt A. Shaffer	:	
Application No. 11/993,809	:	DECISION ON PETITION
Filed: December 21, 2007	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. TRT.prpc4US	:	

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED BENEFIT CLAIM UNDER 37 C.F.R. 1.78(a)(3)", filed July 29, 2008, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application no. 60/595,292 set forth in the concurrently filed Application Data Sheet (ADS).

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The petition fee of $1,410 has been charged to Deposit Account No. 50-1071, as authorized.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Anthony Knight
Supervisor
Office of Petitions

4 SEP 2009

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HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

In re Application of	:	
SHAFFER	:	
Application No.: 11/993,809	:	DECISION
PCT No.: PCT/US2006/024079	:	
Int. Filing Date: 21 June 2006	:	
Priority Date: 21 June 2005	:	
Attorney's Docket No.: 59562.830002.US1	:	
For: PLANT PRODUCT, COMPONENTS	:	
THEREFOR AND METHODS RELATING	:	
THERETO	:	

This decision is in response to applicant's petition under 37 CFR 1.137(b) filed 07 July 2009 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 21 June 2006, applicants filed international application PCT/US2006/024079, which designated the U.S. and claimed a priority date of 21 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 04 January 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 December 2007.

On 21 December 2007, applicants filed a submission for entry into the national stage in the United States. The submission did not include the U.S. Basic National Fee.

On 31 October 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to pay the U.S. Basic National Fee within 30 months of the priority date.

On 07 July 2009, applicants filed the instant petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the basic national fee was submitted on 07 July 2009.

As to item (2), applicants submitted the petition fee on 07 July 2009.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

8 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON AZ 85718

In re Application of	:	
JANG	:	
U.S. Application No.: 11/993,814	:	DECISION ON REQUEST
PCT No.: PCT/KR06/05477	:	
Int. Filing Date: 14 December 2006	:	FOR WITHDRAWAL OF
Priority Date: 21 December 2005	:	
Attorney Docket No.: H&H 07.06	:	ATTORNEY
For: PEDICLE SCREW		

This decision is in response to the "Request For Withdrawal As Attorney Or Agent Of Record And Change Of Correspondence Address" (Form PCT/SB/83) filed 07 October 2008.

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

> In the event that a notice of withdrawal is filed by an attorney or agent of record... appropriate procedure will be followed pertaining to the withdrawal. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another.
>
> The Commissioner of Patents and Trademarks usually requires that there be at least thirty days between *approval* of the withdrawal and the latter of the expiration date of a time response period or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action.

Attorney Norman P. Soloway has provided a clear indication that the request for withdrawal is being made on behalf of himself and all other attorneys/agents associated with Customer Number 27667. However, the originally filed declaration and power of attorney appointed the practitioners by name and registration number, not by customer number. Practitioners must withdraw in the same manner they were appointed, e.g. by name then by name, if by customer number then by customer number. (See OG Notice 1329 OG 99, April 8, 2008). Similarly, counsel has not certified items 2 and 3 of the Form PTO/SB/83. Lastly, applicant seeks to change the correspondence address to that of the assignee, however, it does not appear that a proper statement under 37 CFR 3.73(b) has been provided.

In light of the above, it is not possible to grant applicant's request to withdraw at this time.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Petitions Attorney
Office of PCT Legal Administration
Tel: (571) 271-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

2 1 SEP 2009

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of MATTEUCI et al. Application No.: 11/993,822 PCT No.: PCT/US2006/025881 Int. Filing Date: 29 June 2006 Priority Date: 29 June 2005 Attorney Docket No.: 021305-006110US For: PHOSPHORAMIDATE ALKYLATOR PRODRUGS	:	PETITION UNDER 37 CFR 1.497(d) TO CORRECT INVENTORSHIP

This decision is issued in response to applicant's "Request to Correct Inventorship under 37 CFR 1.48(a)" filed 28 August 2009 which is being treated as a petition to under 37 CFR 1.497(d). The $130 petition fee has been submitted.

BACKGROUND

On 29 June 2006, applicant filed international application PCT/US2006/025881 which claimed a priority date of 29 June 2005. Subsequent to the filing of the international application, pursuant to PCT Rule 26ter, applicants filed therein a declaration of inventorship under PCT Rule 4.17(iv). The international application named: Mark MATTEUCCI; Jian-Xin DUAN; Hailong JIAO; Jacob KAIZERMAN; and Steve AMMONS as applicants/inventors. The deadline for submission of the basic national fee was to expire thirty months from the priority date, i.e., 29 December 2007.

On 21 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; an application data sheet; and Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase.

On 28 August 2009, applicant filed "Request to Correct Inventorship under 37 CFR 1.48(a)."

DISCUSSION

A. Declaration under PCT Rule 4.17(iv)

Subsequent to the filing of the international application, pursuant to PCT Rule 26ter, applicant filed therein a declaration of inventorship under PCT Rule 4.17(iv) executed by Mark MATTEUCCI; Jian-Xin DUAN; Hailong JIAO; Jacob KAIZERMAN; and Steve AMMONS. The instructions to the Rule 4.17(iv) declaration state: "[w]here the declaration was not included in the request, but is furnished later, the PCT application number MUST be indicated within the text of Box No. VIII (iv)." Consistent with this instruction, the text of the Rule 4.17(iv) declaration includes a line that expressly requires entry of the PCT international application number "if furnishing the declaration pursuant to Rule 26ter."

Here, the executed Rule 4.17(iv) declaration was not filed with the original international application materials. Accordingly, the declaration was required to include the PCT application number for the application to which it was directed, that is, PCT/US2006/025881. Because the declaration does not include this PCT application number, the declaration is defective for failure to properly identify the specification to which it was directed. Further, the declaration is not in an acceptable form. Applicant has provided a defective executed composite declaration. (See MPEP 201.03 B. Oath or Declaration.)

B. Deletion of Inventor under 37 CFR 1.497(d)

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicant's request will be treated under 37 CFR 1.497(d). Applicant requests to delete Steve AMMONS as an inventor to the present application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicant must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17; and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter); and

(4) any new oath or declaration required by paragraph (f) of this subsection.

Applicant has submitted a statement from the person being deleted (Steve AMMONS) as inventor in compliance with 37 CFR 1.497(d)(1). The $130 processing fee required under 37 CFR 1.497(d)(2) has been submitted. The submission included the consent of the assignee to the requested correction of inventorship, in the form required under 37 CFR 1.497(d)(3) and 3.73(b). Lastly, applicant has submitted a declaration executed by Mark MATTEUCCI; Jian-Xin DUAN; Hailong JIAO; and Jacob KAIZERMAN. Therefore, applicant's request to correct inventorship under 37 CFR 1.497(d) is granted.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

Steve AMMONS will be deleted as inventors herein.

This application is being forwarded to the United States Designated/Elected Office for further processing and for review of the national stage papers submitted 28 August 2009.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven Cesar Alfons De Jonghe, et al.	:	
Application No. 11/993,832	:	DECISION ON PETITION
Filed: December 21, 2007	:	TO WITHDRAW
Attorney Docket No. 50304/171001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 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 appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal As Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: GILEAD SCIENCES INC
333 LAKESIDE DRIVE
FOSTER CITY, CA 94404

UNITED STATES PATENT AND TRADEMARK OFFICE

2 9 MAR 2010

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of:	:	
HASHIMOTO, Akihiro, et al.	:	DECISION REGARDING
U.S. Application No.: 11/993,834	:	SUBMISSION UNDER
PCT No.: PCT/JP2006/312585	:	37 CFR 1.42
Int. Filing Date: 23 June 2006	:	
Priority Date: 25 June 2005	:	
Attorney's Docket No.: 43521,6600	:	
For: DRIVING RECORDER	:	

This communication is issued in response to applicants' submission on 05 February 2010 of a declaration executed on behalf of deceased inventor Hiroji KOHSAKA by his legal representative Keiko KOHSAKA, treated herein as a submission under 37 CFR 1.42.

BACKGROUND

On 23 June 2006, applicants filed international application PCT/JP2006/312585. The international application claimed a priority date of 25 June 2005, and it designated the United States. On 04 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 December 2007.

On 21 December 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee and an English translation of the international application.

On 18 December 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 05 February 2010, applicants filed a response to the Notification Of Missing Requirements. The submission included payment of the required surcharge, and a declaration document executed by the two surviving inventors and including a "Declaration Supplemental Sheet" (Form PTO/SB/02LR) executed on behalf of deceased inventor Hiroji KOHSAKA by his legal representative Keiko KOHSAKA. The declaration is considered herein under 37 CFR 1.42 and 1.497.

On 10 March 2010, the DO/EO/US mailed "Notification Of Acceptance" (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied as of 05 February 2010.

DISCUSSION

37 CFR 1.42 states in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

> If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration document, including the Supplemental Sheet,[1] is signed by the two surviving inventors and on behalf of deceased inventor Hiroji KOHSAKA by his legal representative Keiko KOHSAKA. The declaration clearly identifies the person signing on behalf of the deceased inventor as the "legal representative," it sets forth the citizenship, residence, and mailing address information for the legal representative, and it sets forth (in a separate signature box), the citizenship of the deceased inventor. The declaration therefore includes all the information required under 37 CFR 1.42 and 1.497(b)(2).

---

[1] Applicants' 05 February 2010 submission states that it includes "an executed oath with an executed Declaration Supplemental Sheet for Legal Representative on Behalf of a Deceased Inventor." This statement is construed as a statement that the Supplemental Sheet executed by the legal representative was executed as part of a complete four-page declaration document that included the first three pages, not on its own as a separate one-page document. If this is not a correct interpretation, applicants must notify this Office immediately, as the Supplemental Sheet, executed on its own, would not constitute an acceptable declaration document.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Hiroji KOHSAKA is **GRANTED**.

The application is being referred for further processing in accordance with this decision. As set forth in the Notification Of Acceptance mailed 10 March 2010, the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 05 February 2010.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

0 4 AUG 2008

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of	:	
Renneberg	:	
Application No.: 11/993,836	:	
PCT No.: PCT/AU2006/000879	:	
Int. Filing Date: 23 June 2006	:	DECISION
Priority Date: 24 June 2005	:	
Attorney Docket No.: 3075.003; 2350.423A	:	
For: Circuit And Method For Fitting The Output Of A Sensor To A Predetermined Linear Relationship	:	

This is in response to the petition under 37 CFR 1.182 filed on 09 June 2008.

BACKGROUND

International application PCT/AU2006/000879 was filed on 23 June 2006, claimed an earlier priority date of 24 June 2005, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 28 December 2006. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 24 December 2007. On 21 December 2007, applicants filed *inter alia* the basic national fee.

DISCUSSION

Petitioner observes that "the last two digits of the PCT International Application Number were transposed in the following formal documents filed on December 21, 2008 (i.e., PCT/AU06/00897 should be listed as PCT/AU06/00879),"referring to the Transmittal Letter, Electronic Acknowledgment Receipt, declaration and IDS. Review of the application file confirms the discrepancies noted by counsel.

Petitioner "respectfully requests that the PCT International Application Number be correctly listed as: PCT/AU06/00879." Based on the totality of the circumstances present in this case, it would be appropriate to accept petitioner's statement that this application was intended as the national stage under 35 U.S.C. 371 of PCT/AU2006/000879, rather than PCT/AU2006/000897 as erroneously recorded in the places indicated.

DECISION

The petition under 37 CFR 1.182 is **GRANTED** as described above.

This application is being returned to the Office of Patent Application Processing for further processing as the national stage under 35 U.S.C. 371 of PCT/AU2006/000879. This processing will include the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), as well as the surcharge under 37 CFR 1.492(h).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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Alexandria, VA 22313-1450
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13 JUN 2008

Lawrence D. Graham
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

In re Application of	:	
TETLOW	:	
Application No.: 11/993,837	:	
PCT No.: PCT/NZ06/00159	:	DECISION ON PETITION
Int. Filing Date: 22 June 2006	:	
Priority Date: 22 June 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: BSWS-1-1001	:	
For: COMMUNICATION SYSTEM FOR INDUCTIVE	:	
POWER TRANSFER SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 05 June 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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Alexandria, VA 22313-1450
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17 JAN 2008

Richard D. Shoop
Shay Glenn LLP
2755 Campus Drive, #210
San Mateo, CA 94403

In re Application of	:	
CHETHAM, Scott	:	
U.S. Application No. 11/993,842	:	
PCT No.: PCT/AU06/00923	:	
Int. Filing Date: 30 June 2006	:	DECISION ON PETITION
Priority Date: 01 July 2005	:	(37 CFR 1.182)
Attorney Docket No.: 10189-703.US1	:	
For: PULMONARY MONITORING SYSTEM	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182" filed 10 January 2008 that seeks to correct the international application number on the national stage application papers filed 21 December 2007 so as to allow such materials to be treated as the U.S. national stage of PCT/AU06/00923. Deposit Account No. 50-4050 will be charged the required $400 petition fee.

BACKGROUND

On 30 June 2006, applicants filed international application No. PCT/AU06/00923, which claimed a priority date of 01 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 02 January 2008.

On 21 December 2007, applicants filed electronically a U.S. national stage application that included, among other materials, payment of the U.S. basic national fee. The submission was assigned U.S. application number 11/993,842.

The materials filed 21 December 2007 included a Transmittal Letter to the United States Designated Office (DO/EO/US) Concerning a Submission that identified the application as a U.S. national stage of PCT/AU06/00923, filed 30 June 2006. The bibliographic data entered by applicants as part of the electronic filing identified the application as a U.S. national stage of PCT/AU03/00923. Thus, applicants' 21 December 2007 filing included conflicting instruction that identified the submission as a U.S. national stage of two different international applications: PCT/AU03/00923 and PCT/AU06/00923.

Based on United States Patent and Trademark Office (USPTO) processing procedures, the application file was initiated in the USPTO PALM system as a U.S. national of PCT/AU03/00923, the international application number set forth in the bibliographical data provided by applicant when filing the electronic application.

DISCUSSION

As noted above, the bibliographical data provided by applicant incorrectly identified the international application to which the submission was directed. Correction of this error is required before the materials filed 21 December 2007 can be treated as having been directed to international application PCT/AU06/00923, as necessary to avoid abandonment of the international application with respect to the United States.

In the present petition filed 10 January 2008, applicants confirm that the listing of international application PCT/AU03/00923 set forth in the bibliographical data provided by applicant was the result of a typographical error, and that the correct international application is PCT/AU06/00923. It is noted that the correct international application number was listed on the Transmittal Letter filed 21 December 2007, and it is accompanied by payment of the required petition fee that properly identifies the application as the national stage of PCT/AU06/00923. These materials satisfy the requirements for a grantable petition to correct the typographical error in the bibliographical data filed 21 December 2007 and to permit such materials to be treated as having been directed to international application PCT/AU06/00923.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The materials filed 21 December 2007 have been assigned U.S. application number 11/993,842, and will be treated as the national stage of PCT/AU06/00923.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

0 1 APR 2009

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02292
Mark J. Nuell
BIRCH, STEWART, KOLASCH &
BIRCH, LLP
12770 High Bluff Drive, Suite 250
San Diego, CA 92130

In re Application of GERARDO KAPLAN et al. Application No.: 11/993,851 PCT No.: PCT/US06/24748 Int. Filing Date: 26 June 2006 Priority Date: 28 June 2005 Attorney's Docket No.: 1173-1030PUS2 For: GROWTH OF WILD-TYPE HEPATITIS A VIRUS IN CELL CULTURE	: : : : :	DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This decision is in response to the "Request For Withdrawal As Attorney or Agent and Change of Correspondence Address" filed 21 July 2008.

DISCUSSION

The criteria for effecting a proper withdrawal of attorney are described in Section 402.06 of the Manual of Patent Examining Procedure (MPEP) which reads, in part, as follows:

"In the event that a notice of withdrawal is filed by an attorney or agent of record... appropriate procedure will be followed pertaining to the withdrawal. The withdrawal is is effective when approved rather than when received.

To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, the request should be submitted in triplicate (original and two copies) and indicate thereon the present mailing addresses of the attorney who is withdrawing and of the applicant...

The Commissioner of Patents and Trademarks usually requires that there be at least thirty days between approvalof the withdrawal and the expiration date of a time response period so that the applicant will have sufficient time to obtain other representation or take other action. If less than thirty days remains in a running

response period, a request to withdraw is normally disapproved."

A review of the application file reveals that the present application is still undergoing pre-examination processing. As no reply to an office action is currently due, there is no impediment to granting counsels' request to withdraw as agents of record.

DECISION

In view of the discussion above, counsels' request to withdraw as agents of record is hereby **GRANTED** as to the attorneys associated with customer number 02292.

All future correspondence will be sent to first named applicant at the following address:

Gerardo Kaplan
NATIONAL INSTITUTES OF HEALTH
Office of Technology Transfer
Bldg. 29-NIH, Rm. 231, HFM-235
Bethesda, MD 20892

Richard Cole
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/RC:jf

Tel: (571) 272-3284
Fax: (571) 273-0459

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2 2 JUL 2009

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH L. STRABALA, ESQ.
ONE EMBARCADERO CENTER
SUITE 1020
SAN FRANCISCO CA 94111

In re Application of: YASUI, Norio
U.S. Application No.: 11/993,864
PCT No.: PCT/JP2006/310062
International Filing Date: 19 May 2006
Priority Date: 23 May 2005
Atty Docket No.: 1865
For: EASILY OPENABLE CAN AND METHOD OF OPENING THE CAN

DECISION

This decision is issued in response to the "Petition For Revised Filing Date 37 CFR 1.183" filed 21 July 2008 and the "Request For Status" filed 09 June 2009. Applicant has paid the required petition fee.

BACKGROUND

On 23 May 2005, applicant filed international application PCT/JP2006/310062. The international application claimed a priority date of 23 May 2005, and it designated the United States. On 30 November 2006, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 23 November 2007.

On 08 November 2007, applicant asserts that the following materials were submitted to the USPTO via facsimile: "Request For Participation In The Patent Prosecution Highway (PPH) Pilot Program Between The (1) JPO or (2) KIPO, and the USPTO" (Form PTO/SB/20); one-page abstract, twelve-page specification, two pages of claims, seven pages of drawings, and a copy of the international search report for PCT/JP2006/310062.

Applicant did not submit a request for entry into the U.S. national stage and payment of the U.S. basic national fee prior to the expiration of the thirty-month deadline. Accordingly, international application PCT/JP2006/310062 became abandoned with respect to the United States at midnight on 23 November 2007.

On 23 December 2007, applicant filed the "Petition For Revised Filing Date 37 CFR 1.183" considered herein. The petition requests that the present national stage application be accorded the filing date of applicant's earlier facsimile submission, 08 November 2007.

On 09 June 2009, applicant filed a "Request For Status" regarding the present application.

DISCUSSION

1. The Facsimile Submission Of 08 November 2007 Is Not A Separate U.S. Application Entitled To An Application Filing Date

The facsimile submission of 08 November 2007 is not be entitled to an application filing date in the USPTO. 37 CFR 1.6(d)(3) states that "[f]acsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt" in certain circumstances, including those where the submission is "[c]orrespondence which cannot receive the benefit of the certificate of mailing or transmission as specified in 1.8(a)(2)(i)(A) through (D) and (F), and 1.8(a)(2)(iii)(A)." 37 CFR 1.8(a)(2)(i)(A) applies to "[t]he filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date." Pursuant to these provisions, materials submitted by facsimile may not serve for the purpose of obtaining an application filing date. Thus, assigning an application filing date based on the facsimile submission of 08 November 2007, as requested by applicant here, would not be appropriate.[1]

In addition, although the present petition refers to the materials filed on 08 November 2007 as the "PPH Application," the Patent Prosecution Highway (PPH) is a program in which certain U.S. applications may participate; it is not a separate mechanism for filing a U.S. application. Thus, the filing of a Form PTO/SB/20 requesting to participation in the PPH program is not the equivalent of filing a new and separate U.S. application.

Based on the above, applicant's 08 November 2007 facsimile submission is not entitled to an application filing date.

2. International Application PCT/JP2006/310062 Is Abandoned With Respect To The United States

Pursuant to 37 CFR 1.495(h), an international application becomes abandoned as to the Untied States if the U.S. basic national fee is not submitted prior to the expiration of thirty months from the priority date. The materials purportedly filed by applicant via facsimile on 08 November 2007 did not include payment of this required fee. Thus, even if the 08 November 2007 submission was treated as a U.S. national stage application and such materials were accorded the 08 November 2007 filing date requested by applicant, the application would still be considered abandoned based on the failure to timely submit the basic national fee.

[1] It is noted that the present petition does not include a showing that confirms the purported 08 November 2007 facsimile transmission.

3. Petition Under 37 CFR 1.183

37 CFR 1.183 permits waiver of a regulatory requirement in "an extraordinary situation, when justice requires." However, such waiver is not appropriately granted where applicants have alternative remedies available. In the present circumstances, applicant has available the alternative remedy of filing a petition for revival of the international application under 37 CFR 1.137(b) which, if granted, will allow the present national stage application to proceed.

Based on the above, applicant has not made an adequate showing that the present circumstances present an "extraordinary situation" where "justice requires" waiver of the applicable regulations. Applicant's petition under 37 CFR 1.183 is therefore appropriately dismissed on the present record.

CONCLUSION

The "Petition For Revised Filing Date 37 CFR 1.183" filed 21 July 2008 is **DISMISSED** without prejudice. Any materials submitted by applicants via facsimile on 08 November 2007 requesting participation in the Patent Prosecution Highway (PPH) program are not entitled to a U.S. application filing date.

The materials filed by applicants via the EFS-Web electronic filing system to initiate the present U.S. national stage application, including the payment of the basic national fee, were submitted on 23 December 2007, after the expiration of thirty months from the priority date. Accordingly, the present application is **ABANDONED**.

Any request for reconsideration of the present decision must be filed within **TWO (2) MONTHS** of the mail date of the present decision.

In the alternative to a renewed petition, applicant may consider filing a petition for revival of an unintentionally abandoned application under 37 CFR 1.137(b).

It is noted that, if the international application is revived pursuant to a grantable petition under 37 CFR 1.137(b), the filing date for the present national stage application will be 19 May 2006, the international filing date of PCT/JP2006/310062 (see MPEP section 1893.03(b)).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith

Leonard E. Smith
Supervisory Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

RECEIVED

SEP 22 2009

PCT LEGAL
ADMINISTRATION

UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR RECONSIDERATION OF DECISION OF JULY 22, 2009 BY LEONARD E. SMITH DENYING (*WITHOUT PREJUDICE)* APPLICANT's PETITION TO ACCORD APPLICATION SERIAL NO. 11/993864 THE FILING DATE OF NOVEMBER 8, 2007

Inventor: Norio Yasui

Application No. 11/993864

Filed: December 23, 2007

Title: Easily Openable Can etc.

Mail Stop PCT
PCT LEGAL STAFF
COMMISSIONER OF PATENTS
P.O. BOX 1450
Alexandria, VA 22313-1450

ATTENTION: PCT LEGAL ADMINISTRATION
LEONARD E. SMITH, SUPERVISING LEGAL EXAMINER

DOCUMENTS OF RECORD INCORPORATED IN THIS REQUEST

PPH Facsimile Filing November 8, 2007
Regular Filing of This Application December 23, 2007
Petition For Revised Filing Date Based on PPH Filing
Declaration of Strabala in Support of Petition
Decision of Office of PCT Legal Administration of July 22, 2009 (without prejudice)

PREFACE

Applicant's U. S. attorney filed a Petition to give applicant's application Serial No. 11/993864 the filing date of November 8, 2007 based on a facsimile filing of a PPH application on said date.

A. <u>In support of the Petition applicant filed:</u>

i) Petition For Revised Filing Date Based on PPH Filing.

ii) Declaration of Strabala in Support of Petition (with attachments).

B. Also in support of Petition applicant relied upon:

i. PPH Papers filed by Facsimile on November 8, 2007.

ii. This Patent Application filed December 23, 2007.

The undisputed facts are:

1. In November 2007 the Patent and Trademark Office **required** the use of Form PTO/SB/20 (9-07) for PPH applications from Japan and the Patent Office promulgated rules at that time that the filing of such PPH applications be filed by facsimile, see quote from form, *infra.*

2. In November 2007 applicant's U. S. attorney was contact by a friend of the applicant about a PPH application for this Japanese applicant. Due to translation difficulties applicant's attorney was not advised that a National

Stage Application had not been filed by applicant's Japanese attorneys.

3. Applicant's U. S. attorney on November 8, 2007 used the Form PTO/SB/20 that **required** the PPH application be **submitted via facsimile** to Ms. Greenlief at the U. S. Patent Office. The facsimile filing date of this PPH application was November 8, 2009.

4. Applicant under the PCT had until November 23, 2007 to file applicant's national stage PCT application in the United States.

5. On learning no National Stage Application had been filed, applicant's U. S. attorney filed application Serial No. 11/993864 on December 23, 2007 which application was (and is) identical in all substantive parts to the PPH application which was filed by facsimile on November 8, 2007.

6. Applicant thereafter filed a Petition that requested that the application Serial No. 11/993864 be given the same filing date as the PPH application, i.e., November 8, 2008. (see earlier Petition of Record)

7. On July 22, 2009 Leonard E. Smith, Supervisory Legal Examiner of the Office of PCT Legal Administration, denied the petition *without prejudice,* finding that the PPH application was filed via fax and facsimile transmissions are not permitted under the rules [Id. see Decision, page 2].

Points and Authorities

A. Response Time to Denial of the Earlier Petition Is Set for Two Months.

In the decision of July 22, 2009, Applicant was given two months to respond. This pleading for reconsideration is therefore timely.

B. Promulgated Rules Are in Conflict

Applicant's attorney notes Form PTO/SB/20 in November 2007 *required* the PPH application for Japanese applicants be filed by facsimile (see Quote from form, *infra*). Ms. Greenlief, who was in charge of the PPH project at that time, articulated on the telephone the facsimile filing of the PPH papers following the then existing instructions of the Patent Office, would be entitled to the filing date on receipt of the facsimile.

Not withstanding the forgoing, Supervisory Legal Examiner Smith, found both applications abandoned, but opined:

> "In the alternative to a renewed petition, applicant my consider filing a petition for revival of an unintentional abandoned application under 37 CFR 1.137(b).
>
> It is noted if the international application is revived pursuant to a grantable petition under 37 CFR 1.137(b), the filing date of the national stage application will be 19 May 2006, the international filing date of PTC/JP2006/310062 (see MPEP Section 1893.03(b)."

C. Applicant has filed a Petition To Revive, But Desires to Preserve His Rights of Appeal of the Decision denying his earlier Petition

Applicant filed a petition to revive application, Serial No. 11/993864 with a filing date of 19 May 2006, on September 11, 2009, based on a factual showing the abandonment of the referenced serial number was unintentional.

However, based on the facts of record Applicant believes his earlier petition was wrongly denied in the Decision of July 22, 2009.

D. Conflicting Rules Promulgated by PTO

PTO/SB/20 (09-07) (copy of first page attached) contains the following language at the bottom of its first page. "**DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. FAX COMPLETED FORMS TO: Office of the Commissioner of Patent at 571-273-0125. Attention: Magdalen Greenlief.**" This was the form promulgated by the Patent Office for November 2007 when the applicant filed the form on November 8, 2007 via fax with a complete copy of the application (see actual facsimile PPH filing in PTO).

Thus there is no question the Patent and Trademark Office received a complete application of the applicant on November 8, 2007 (26 Pages), well before the end of the November 23, 2007 term for filing a National Stage application in the U. S. Patent Office. Moreover the receipt at Patent Office then was in compliance with the specific instructions of the U. S. Patent Office, quoted, *supra.*

F. Earlier Promulgated Rules Inconsistence.

An international application for patent or a copy of the international application and the basic national fee necessary to enter the national stage, as specified in 37 CFR 1.495(b), may NOT be submitted by facsimile. See 37 CFR 1.6(d)(3) (referencing 37 CFR 1.8(a)(2)(i)(D) and (F)). **Subsequent correspondence may be transmitted by facsimile** in an application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Examining Authority, but it will NOT receive the benefit of any certificate of transmission (or mailing). See 37 CFR 1.8(a)(2) (i)(E). Correspondence during national stage, subsequent to entry, are handled in the same manner as a U.S. national application. (*Emphasis added)*. Promulgated in 2005.

G. Later Promulgated Rules in Form PTO/SB/20 (09-07)

It is submitted that the specific instructions on the reference form, quoted *supra,* abrogated the earlier rules set forth in Paragraph F, *supra,* regarding the filing date for a PPH application until the Form was changed. Within this window, when applications were allowed to be filed by facsimile, applicant filed his PPH application.

i. In *Helfgott & Karas v. Dickenson,* 209 F.3d 1328 (Fed. Cir., 2000) the

court found jurisdiction where the issue was if the Commissioner violated the APA in applying the PCT rules and regulations, as well as its own regulations, in denying a petition to revive. *Helfgott* had made a Demand under the PCT but due to errors the demand was interpreted at the PTO as being to a different application leading to abandonment of application of interest. The district court granted summary judgment against Helfgott's contention that the Commissioner's refusal to grant relief under 37 C.F.R. § 1.183 was an abuse of discretion, thereby working a violation of 5 U.S.C. 706(2)(A) (1994) (requiring courts to "hold unlawful and set aside agency actions . . . found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.")

The Federal Circuit opined, pursuant to 37 C.F.R. § 1.183, "[i]n an extraordinary situation, when justice requires, any requirement of the regulations . . . not required by the statutes may be suspended or waived by the Commissioner." Helfgott requested that the Commissioner allow the correction of errors in the Demand--to make clear that the Demand related to the '856 application, not the '218 application. Helfgott argues that while it bears no small amount of blame for the circumstances, the Commissioner was also a primary contributor, and should have accordingly exercised his discretion in this situation. at 1335.

The Federal Circuit in *Helfgott* continued:

" First, we hold that the Commissioner misapplied PCT Rule 91.1 in denying Helfgott's petition under 37 C.F.R. § 1.183. That section (1.183) authorizes the Commissioner, in the interests of justice, to suspend or waive any otherwise applicable non-statutory requirement. Through the section 1.183 petition, Helfgott sought permission to correct the Demand in a manner that would preserve the October 21, 1996, filing date of that document. In order to achieve that result, the Commissioner would either have to extend the time limit allowed for response to the Invitation--which he is authorized to do pursuant to PCT Rule 60.1(a)--or withdraw the flawed Invitation referring to the '218 application and reissue a correct Invitation to Correct Defects, thus allowing Helfgott to respond to that Invitation in a timely manner and make the corrections authorized by PCT Rule 91.1. See PCT Rule 60.1(b) ("If the applicant complies with the invitation within the time limit . . . the demand shall be considered as if it had been received on the actual filing date."). Either of those two actions would provide the relief that Helfgott seeks--the opportunity to avail himself fully of the benefits of PCT Rule 91.1. That Rule (which is legally binding on the Commissioner) allows correction of "obvious errors" in a filing. Helfgott argues that Rule 91.1 allows the application number printed on the Demand to be timely changed to reflect that the Demand is related to the 856 application."

Reversing the District Court grant of summary Judgment the Federal Circuit noted: " Applicants who mistakenly transposed digits in the application number placed on filed documents would be at risk that the Commissioner would adopt the wooden position he takes here: that the application number cannot later be changed, notwithstanding the provisions of PCT Rule 91.1, because the erroneous document appears to relate to another application. This we cannot allow.

H. Complicity of PTO

Like found in *Helfgott* the Commissioner was not without complicity in promulgating the form directing the facsimile filing in this case. It is interesting in that the PPH contained the entire application it would also be possible to designate it as the National Stage application by assigning it the serial number of this application. The relief sought violates no rule applicable to patent applications which is easily verified by reviewing the PPH application.

Conclusion

For the reasons articulated the earlier Petition should have been granted and should be granted now pursuant to this request for Rehearing.

Dated: September 21, 2009

//

//

Respectfully Submitted

JOSEPH L. STRABALA, ESQ.
LAW OFFICES OF JOSEPH L. STRABALA
One Embarcadero Center, Suite 1020
SAN FRANCISCO, CA 94111
415 871-8083
Reg. No. 22464

CERTIFICATE OF MAILING

I certify this correspondence is being deposited in the United States Post Service on September 21, 2009 in an envelop addressed to:

MAIL STOP PCT
Attention: PCT LEGAL ADMINISTRATION
COMMISSIONER OF PATENTS
P.O. BOX 1450
Alexandria, VA 22313-1450

by Express Mail # EQ 432528112 US

JOSEPH L. STRABALA

PTO/SB/20 (09-07)
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REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE (1) JPO OR (2) UKIPO, AND THE USPTO

Application No.:	2006-133030	First Named Inventor:	NORIO YASUI
Filing Date:	11 May 2006	Attorney Docket No.:	1865
Title of the Invention:	EASILY OPENABLE CAN AND METHOD OF OPENING THE CAN		

THIS REQUEST FOR PARTICIPATION IN THE PPH PILOT PROGRAM MUST BE FAXED TO:
THE OFFICE OF THE COMMISSIONER FOR PATENTS AT 571-273-0125 DIRECTED TO THE ATTENTION OF MAGDALEN GREENLIEF

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PPH PILOT PROGRAM.

COPY

The above-identified application validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s) or UKIPO application(s).

The ☒ JPO ☐ UKIPO application number(s) is/are: JP2006 310062

The filing date of the ☒ JPO ☐ UKIPO application(s) is/are: 19 May 2006

I. List of Required Documents:

a. **A copy of all JPO office actions (excluding "Decision to Grant a Patent"*) in the above-identified JPO application(s), or a copy of all UKIPO office actions in the above-identified UKIPO application(s).**

☐ Is attached.

☒ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

*It is not necessary to submit a copy of the "Decision to Grant a Patent" and an English translation thereof.

b. **A copy of all claims which were determined to be patentable by the JPO in the above-identified JPO application(s), or a copy of all claims which were determined to be patentable by the UKIPO in the above-identified UKIPO application(s).**

☐ Is attached.

☒ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

c. **English translations (where applicable) of the documents in a. and b. above along with a statement that the English translations are accurate are attached.**

Information disclosure statement listing the documents cited in the JPO office actions or UKIPO office actions is attached.

Copies of all documents are attached except for U.S. patents or U.S. patent application publications.

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). 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 2 hours 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. **FAX COMPLETED FORMS TO: Office of the Commissioner for Patents at 571-273-0125, Attention: Magdalen Greenlief.**

UNITED STATES PATENT AND TRADEMARK OFFICE

15 OCT 2009

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United States Patent and Trademark Office
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www.uspto.gov

JOSEPH L. STRABALA, ESQ.
ONE EMBARCADERO CENTER
SUITE 1020
SAN FRANCISCO CA 94111

In re Application of: YASUI, Norio	:	
U.S. Application No.: 11/993,864	:	DECISION ON PETITION
PCT No.: PCT/JP2006/310062	:	(37 CFR 1.137(b))
International Filing Date: 19 May 2006	:	
Priority Date: 23 May 2005	:	
Atty Docket No.: 1865	:	
For: EASILY OPENABLE CAN AND	:	
METHOD OF OPENING THE CAN	:	

This decision is issued in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 11 September 2009. Applicant has paid the required petition fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed 22 July 2009. The decision dismissed without prejudice applicant's petition under 37 CFR 1.183 to accord the present national stage application a filing date of 08 November 2007. The decision also confirmed that, based on applicant's failure to timely file the U.S. basic national fee, international application PCT/JP2006/310062 became abandoned with respect to the United States at midnight on 23 November 2007.

On 11 September 2009, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein.

DISCUSSION

The present petition for revival was accompanied by payment of the petition fee. Applicant had previously submitted, on 23 December 2007, the "required reply" in the form of a request for entry into the national stage and payment of the small entity basic national fee. In addition, the petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirement of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application with respect to the United States is appropriately granted.

CONCLUSION

The petition for revival of international application PCT/JP2006/310062 under 37 CFR 1.137(b) is **GRANTED**.

This national stage application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED

JUL 01 2009

OFFICE OF PETITIONS

Applicant: Neirinck et al.
Appl. No.: 11/993,869
International Filing Date: June 27, 2006.
Title: PROCESS FOR PRODUCING SINTERED POROUS MATERIALS
Attorney Docket: 50304/166001
Pub. No.: US 2008/0159899 A1
Pub. Date: July 3, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 26, 2008, for the above-identified application.

The request is GRANTED.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

2 3 MAR 2009

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of	:	
Goodwin et al.	:	
Application No.: 11/993,906	:	DECISION
PCT No.: PCT/US2006/024806	:	
Int. Filing Date: 26 June 2006	:	ON
Priority Date: 29 June 2005	:	
Attorney Docket No.: CU-6322 RJS/ZF	:	PETITION
For: A Rotatable Perfused Time Variable Electromagnetic: Force Bioreactor And Method Of Using The Same	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 15 January 2009.

BACKGROUND

This international application was filed on 26 June 2006, claimed an earliest priority date of 29 June 2005, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 29 December 2007. Applicants filed *inter alia* the basic national fee on 26 December 2007.

On 17 October 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

Petitioner requests that the absence of the signature of joint inventor Clayton Robert Parker be excused pursuant to 37 CFR 1.47(a). A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, the $200.00 petition fee has been paid.

Regarding **requirement (2)**, petitioner has provided a statement signed by Zareefa B. Flener, who states that Clayton Parker "was reached but refused to sign the Declaration." Atty. Flener indicates that a copy of the declaration was sent to Mr. Parker, but it is unclear whether a complete copy of the application papers was sent to him. It appears from the copies of correspondence included with the petition that all of the correspondence in question was sent via email, rather than being sent to Mr. Parker's postal address. Petitioner should clarify whether any correspondence was sent to Mr. Parker's last known postal address via mail. Moreover, it is stated that Mr. Parker has "refused" to execute the declaration, and that "many attempts were made to convince Mr. Parker to sign the Declaration and Power, but to no avail," but it is unclear

whether this alleged refusal is a constructive refusal, or whether Mr. Parker explicitly stated that he refused to execute the application after being presented with an oath or declaration and a complete copy of the application papers. Petitioner should provide further details of the alleged refusal. In addition, it appears that at least some of the documents were transmitted to Donnie Rudd by Debbie Szumowski, but it is unclear what role Mr. Rudd played, and no supporting statement by Ms. Szumowski or Mr. Rudd has been provided. Based on the totality of the evidence of record, it would be appropriate to conclude at this time that Mr. Parker has refused to execute the application within the meaning of 37 CFR 1.47(a).

Regarding **requirement (3)**, the petition includes a statement of the last known address of the non-signing inventor.

Regarding **requirement (4)**, the declaration filed on 15 January 2009 is satisfactory for purposes of 37 CFR 1.47(a) and 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

2 4 JUL 2009

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224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of	:	
Goodwin et al.	:	
Application No.: 11/993,906	:	DECISION
PCT No.: PCT/US2006/024806	:	
Int. Filing Date: 26 June 2006	:	ON
Priority Date: 29 June 2005	:	
Attorney Docket No.: CU-6322 RJS/ZF	:	PETITION
For: A Rotatable Perfused Time Variable Electromagnetic: Force Bioreactor And Method Of Using The Same	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 27 May 2009.

DISCUSSION

In a Decision mailed on 23 March 2009, the petition under 37 CFR 1.47(a) filed on 15 January 2009 was dismissed, without prejudice, because requirement (2) had not been satisfied.

In response, petitioner states (in part) that "I, Donnie Rudd, emailed a copy of the Application to Mr. Parker. Mr. Parker received the Application. Thereafter, Mr. Parker indicated over a telephone conversation that he will not sign the Declaration and Power. Clayton R. Parker has refused to sign the Declaration." In support of this explanation, Mr. Rudd has provided a copy of an email he sent to "Rob Parker" (Clayton R. Parker?) on 14 May 2009, asking "Rob" to confirm that Mr. Rudd sent him "the patent application and documents related to foreign filing of the application on or about Oct. 3, 2008 and that you refused and still refuse to sign documents with respect to the foreign filing..." It is not clear that this email specifically pertains to the question of Mr. Parker's execution of an oath or declaration in this particular U.S. national phase application, as opposed to one or more "foreign" filings in other countries. Clarification is required. In addition, petitioner has not provided a copy of the original email, possibly dated 03 October 2008, to which the application allegedly was attached.

Mr. Rudd has stated that "Mr. Parker received the application;" did Mr. Parker orally confirm this fact, or does petitioner have other evidence to support this conclusion? Mr. Rudd refers to an explicit refusal during a telephone conversation, but has not provided specific details of the conversation (e.g., date and time, whether Mr. Parker explicitly indicated that he had received the application papers and oath or declaration of this application, whether it was this particular application he was refusing to sign, and any other pertinent particulars). *See* MPEP 409.03(d). Based on the evidence currently of record, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

- 1 MAR 2010

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of	:	
Goodwin et al.	:	
Application No.: 11/993,906	:	DECISION
PCT No.: PCT/US2006/024806	:	
Int. Filing Date: 26 June 2006	:	ON
Priority Date: 29 June 2005	:	
Attorney Docket No.: CU-6322 RJS/ZF	:	PETITION
For: A Rotatable Perfused Time Variable Electromagnetic: Force Bioreactor And Method Of Using The Same	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 22 January 2010.

DISCUSSION

In a Decision mailed on 24 July 2009, the renewed petition under 37 CFR 1.47(a) filed on 27 May 2009 was dismissed, without prejudice, because requirement (2) had not been satisfied.

In response, petitioner has filed a declaration executed by Mr. Parker. As such, the petition under 37 CFR 1.47(a) has been rendered MOOT.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 January 2010**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283

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Alexandria, VA 22313-1450
www.uspto.gov

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Van Eijk et al.	:	
Application No. 11/993,961	:	ON PETITION
Filed: July 14, 2008	:	
Attorney Docket No. VAN EIJK=13A	:	

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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2 8 MAY 2009

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

In re Application of MORGAN et al	:	
U.S. Application No.: 11/993,978	:	
PCT Application No.: PCT/GB2006/002390	:	DECISION
Int. Filing Date: 28 June 2006	:	
Priority Date Claimed: 29 June 2005	:	
Attorney Docket No.: HO-P03201US1	:	
For: GENE REGULATION	:	

This is in response to applicant's petition under 37 CFR 1.182 filed 01 May 2009.

BACKGROUND

On 28 June 2006, applicant filed international application PCT/GB2006/002390, which claimed priority of an earlier United States application filed 29 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 04 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 29 December 2007.

On 27 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 19 May 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and a substitute computer readable form (CRF) copy of the sequence listing must be filed.

On 04 June 2008, applicant filed an executed declaration.

On 27 October 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that applicant's 04 June 2008 response failed to include a substitute CRF copy of the sequence listing.

On 20 November 2008, applicant filed a substitute CRF copy of the sequence listing.

On 02 April 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to file a proper reply to the Notification of Defective Response. In particular, the substitute CRF copy of the sequence listing was found to contain errors.

On 01 May 2009, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

I. Petition under 37 CFR 1.182

The petition states that after submission of the defective substitute CRF copy of the sequence listing, applicant was not given a period for reply in order to correct the deficiency. However, the Notification of Missing Requirements mailed 19 May 2008 notified applicant that a substitute CRF copy of the sequence listing must be filed. Applicant's response to the Notification of Missing Requirements failed to include the requisite substitute CRF copy of the sequence listing. Accordingly, the DO/EO/US mailed the Notification of Defective Response on 27 October 2008, giving applicant a one month period for reply in order to correct the deficiency. Because applicant failed to submit a full and proper reply to the Notification of Defective Response in the form of an acceptable substitute CRF copy of the sequence listing, the application was properly held abandoned. The $400.00 petition fee required by 37 CFR 1.182 will be charged to Deposit Account No. 06-2375 as authorized in the petition.

II. Petition under 37 CFR 1.137(b)

Applicant alternatively requests relief under 37 CFR 1.137(b).

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 28 June 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 04 June 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

16 MAY 2008

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John Alexander Galbreath
2516 Chestnut Woods Ct.
Reisterstown, MD 21136

In re Application of	:	
MCINTYRE et al.	:	
Application No.: 11/993,992	:	
PCT No.: PCT/NZ06/00172	:	DECISION ON
Int. Filing Date: 04 July 2006	:	PAPERS UNDER 37 CFR 1.42
Priority Date: 04 July 2005	:	
Attorney Docket No.: L122707	:	
For: CONTINUOUS POSITIVE AIRWAY PRESSURE DEVICE		

This decision is in response to the declaration filed 15 January 2008, which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 04 July 2006, applicant filed international application PCT/NZ06/00172, which claimed a priority date of 04 July 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 January 2007. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 January 2008.

On 27 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 15 January 2008, applicant filed the present request under 37 CFR 1.42. The declaration filed with the present request was executed by the seven joint inventors and Cindy Ursula McIntyre on behalf of deceased inventor, Donald Ross McIntyre.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed on 15 January 2008 is executed by Cindy Ursula McIntyre as the "legal representatives" of the deceased inventor, Donald Ross McIntyre. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for both the deceased inventor and the legal representative must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration filed on 15 January 2008 provides the citizenship for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.42 and 37 CFR 1.497(b)(2).

Additionally, a review of the declarations filed on 15 January 2008 reveals that the declaration is not in an acceptable form. Applicant has provided a defective executed composite declaration. A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to

respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

1 9 DEC 2008

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John Alexander Galbreath
2516 Chestnut Woods Ct.
Reisterstown, MD 21136

In re Application of MCINTYRE et al.	:	
Application No.: 11/993,992	:	
PCT No.: PCT/NZ06/00172	:	
Int. Filing Date: 04 July 2006	:	DECISION ON
Priority Date: 04 July 2005	:	PAPERS UNDER 37 CFR 1.42
Attorney Docket No.: L122707	:	
For: CONTINUOUS POSITIVE AIRWAY PRESSURE DEVICE	:	

This decision is in response to applicant's "Renewed Submission under 37 CFR 1.42" filed 18 June 2008. No petition fee is required.

BACKGROUND

On 04 July 2006, applicant filed international application PCT/NZ06/00172, which claimed a priority date of 04 July 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 January 2007. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 January 2008.

On 27 December 2007, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 15 January 2008, applicant filed a request under 37 CFR 1.42. The declaration filed with the request was executed by the seven joint inventors and Cindy Ursula McIntyre on behalf of deceased inventor, Donald Ross McIntyre. In a decision dated 16 May 2008, applicant's request was dismissed because the declaration was not acceptable under 37 CFR 1.497(b)(2).

On 18 June 2008, applicant filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead,* states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed on 18 June 2008 is executed by Cindy Ursula McIntyre as the "legal representatives" of the deceased inventor, Donald Ross McIntyre. The declaration provides the residence, post office address, and country of citizenship for the legal representative and the citizenship of the deceased inventor. The declaration submitted on 18 June 2008 appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration is not in an acceptable form.

Applicant has submitted what appears to be five separate two-page (cover page and signature page) declarations. 37 CFR 1.497(a)(3) states that, among other information, the declaration must identify "each inventor and the country of citizenship of each inventor." Section 201.03 of the Manual of Patent Examining Procedure states, in part,

> 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 . . . For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor . . .

Here, none the declarations filed by applicant satisfies this requirement. The legal representative and inventors have executed separate declaration which only identifies the particular inventor signing that declaration, which is improper. Accordingly, these declarations are defective pursuant to 37 CFR 1.497(a)(3).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

0 4 MAR 2009

John Alexander Galbreath
2516 Chestnut Woods Ct.
Reisterstown, MD 21136

In re Application of	:	
MCINTYRE et al.	:	
Application No.: 11/993,992	:	
PCT No.: PCT/NZ06/00172	:	DECISION ON
Int. Filing Date: 04 July 2006	:	PAPERS UNDER 37 CFR 1.42
Priority Date: 04 July 2005	:	
Attorney Docket No.: L122707	:	
For: CONTINUOUS POSITIVE AIRWAY PRESSURE DEVICE		

In a communication mailed by this Office on 19 December 2008, the declaration filed by applicant on behalf of deceased inventor Donald Ross McIntyre was dismissed under 37 CFR 1.42 and 37 CFR 1.497. Specifically, the declaration submitted appeared to be a compilation of multiple declaration documents.

On 20 December 2008, applicant filed a response to the previous communication that was accompanied by a revised declaration(s). The declaration submitted on 20 December 2008 identifies the deceased inventor and states the deceased inventor's country of citizenship and residence, is signed by Cindy Ursula McIntyre as "Legal Representative," states her relationship to the deceased (i.e., Legal Representative), and provides the Legal Representative's country of citizenship and residency. Additionally, the renewed petition is accompanied by copies of the complete four-page declaration documents executed by the remaining joint-inventors. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is <u>GRANTED</u>.

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

12 MAR 2009

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL 42289 DE GERMANY

In re Application of:	:	
HUMMEL, Karl-Ernst	:	DECISION ON REQUEST UNDER
U.S. Application No.: 11/993,994	:	37 CFR 1.497(d)
PCT No.: PCT/EP2006/063640	:	
International Filing Date: 28 June 2006	:	
Priority Date: 30 June 2005	:	
Attorney's Docket No.: 2512/US	:	
For: SECONDARY AIR CHARGER	:	

This decision is issued in response to the "Letter In Response To Missing Parts Notice" and accompanying materials filed 23 July 2008, treated herein as a request to correct inventorship pursuant to 37 CFR 1.497(d). Applicants have paid the required $130 processing fee.

BACKGROUND

On 28 June 2006, applicants filed international application PCT/EP2006/063640. The application claimed a priority date of 30 June 2005, and it designated the United States. On 11 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 December 2007. The published international application identified one applicant/inventor for the U.S.: Karl-Ernst HUMMEL.

On 27 December 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an English translation of the international application.

On 23 July 2008, applicant filed a declaration document executed by the inventor of record, as well as two additional persons, Peter KOCK and Jorg WAINUS. The declaration was accompanied by the "Letter In Response To Missing Parts Notice" and statements from the two added inventors. These materials are considered herein as a request under 37 CFR 1.497(d) to add Peter KOCH and Jorg WAINUS as additional inventors of record in the present application.

DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

As noted above, applicants have filed a declaration that names an inventive entity different than that set forth in the international application (specifically, Peter KOCH and Jorg WAINUS have been added as additional inventors). Accordingly, applicants must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

The present submission includes the required statements of non-deceptive intent from the persons to be added as inventors, as well as the required processing fee. Requirements (A) and (B) are therefore satisfied. However, applicants have not submitted the written consent of assignee MANN-HUMMEL GmbH to the requested change in inventorship. Requirement (C) is therefore not satisfied.[1]

Based on the above, applicants have failed to submit all the requirements of a grantable request under 37 CFR 1.497(d). Accordingly, the request to add Peter KOCH and Jorg WAINUS as additional inventors of record is appropriately dismissed on the present record, and the declaration filed 23 July 2008 is unacceptable for failure to properly identify the inventors of record herein.

It is noted that the declaration document filed by applicants on 23 July 2008 is defective for additional reasons. Specifically, the declaration document (which consists of one copy of pages "1 of 3" and "2 of 3" and three different copies of page "3 of 3") appears to be a compilation of multiple separately executed declarations, and as such is not acceptable under 37 CFR 1.497. See MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." Applicants must provide complete copies of the individual declarations executed by each of the inventors.

In addition, the declaration is defective because it contains hand-written alterations.[2] Any changes made in ink in the application or declaration prior to signing should be initiated and dated by the applicants prior to execution of the declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration (see MPEP 605.04(a)). Therefore, a newly executed declaration is required from Jorg WAINUS.

---

[1] It is noted that such assignee consent must be submitted in compliance with 37 CFR 3.73(b).

[2] The alterations appear on the bottom of the version of "Page 3 of 3" executed by Jorg WAINUS. It is noted that these annotations are also unacceptable because they are in German.

CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The inventorship of record herein remains that set forth in the international application, that is, Karl-Ernst HUMMEL.

The declaration filed 23 July 2008, which includes additional inventors Peter KOCH and Jorg WAINUS, is defective on the present record for failure to properly identify the inventors of record herein.

The declaration filed 23 July 2008 is also defective in that it appears to be a compilation of multiple documents, and because it contains non-dated, non-initialed hand-written German alterations.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable petition, as discussed above and in the MPEP, that is, the written consent of the assignee to the proposed change of inventorship in the form required by 37 CFR 3.73(b), as well as complete copies of the declarations executed by each of the inventors and a re-executed declaration from Jorg WAINUS that does not include unacceptable handwritten alterations.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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2 3 JUN 2009

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GUDRUN E. HUCKETT DRAUDT
SCHUBERTSTR. 15A
WUPPERTAL 42289 DE GERMANY

In re Application of:	:	
HUMMEL, Karl-Ernst	:	DECISION ON RENEWED
U.S. Application No.: 11/993,994	:	REQUEST UNDER
PCT No.: PCT/EP2006/063640	:	37 CFR 1.497(d)
International Filing Date: 28 June 2006	:	
Priority Date: 30 June 2005	:	
Attorney's Docket No.: 2512/US	:	
For: SECONDARY AIR CHARGER	:	

This decision is issued in response to the "Renewed Petition Request Under 37 CFR 1.497(d)" filed 12 May 2009. Applicants have previously submitted the required $130 processing fee.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 12 March 2009. That decision dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements of a grantable request. Specifically, applicants had failed to provide the consent of the assignee to the requested change in inventorship. The decision also identified additional defects in the declaration filed on 23 July 2008.

On 12 May 2009, applicants filed the "Renewed Petition Request Under 37 CFR 1.497(d)" considered herein.

DISCUSSION

The renewed petition includes the written consent of assignee MANN-HUMMEL GmbH to the requested change in inventorship. This statement of consent was accompanied by a "Statement Under 37 CFR 3.73(b)" which indicates 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 37 CFR 3.11." However, the submission does not include a copy of the concurrently recorded assignment, as required under 37 CFR 3.73(b)(1)(i).[1] The consent of the assignee submitted here is therefore not in compliance with 37 CFR 3.73 and cannot be accepted

[1] 37 CFR 3.73(b)(1)(i) requires submission of both the documentary evidence supporting the assignee's interest in the application (i.e., the assignment) and the statement confirming that such document has been recorded with the USPTO pursuant to 37 CFR 3.11).

on the present record. The final element of a grantable request to correct inventorship therefore remains unsatisfied.

It is noted that the renewed petition was accompanied by complete copies of the three-page declaration executed by each of the three inventors, including a newly executed declaration from inventor from Jorg WAINUS. These declarations resolve the compilation and alteration defects discussed in the previous decision.

CONCLUSION

Applicants' renewed request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The inventorship of record herein remains that set forth in the international application, that is, Karl-Ernst HUMMEL.

The revised declarations filed 12 May 2009, which include additional inventors Peter KOCH and Jorg WAINUS, are defective on the present record for failure to properly identify the inventors of record herein.

The previously discussed issues regarding compilation of the declaration document and hand-written alterations on the declaration have been resolved by the revised declarations filed 12 May 2009.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (C) of a grantable petition, as discussed above and in the MPEP, that is, a submission from the assignee in compliance with 37 CFR 3.73(b)(1) that will permit acceptance of the statement of assignee consent submitted herein.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

3 SEP 2009

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P.O. Box 1450
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MANN+HUMMEL GMBH, DEPT: VR-P PLANT 5.4
HINDENBURGSTR. 45
LUDWIGSBURG, GERMANY 71638

In re Application of: HUMMEL, Karl-Ernst, et al. U.S. Application No.: 11/993,994 PCT No.: PCT/EP2006/063640 International Filing Date: 28 June 2006 Priority Date: 30 June 2005 Attorney's Docket No.: 2512/US For: SECONDARY AIR CHARGER	DECISION ON SECOND RENEWED REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Second Renewed Petition Request Under 37 CFR 1.497(d)" filed 14 August 2009. Applicants have previously submitted the required $130 processing fee.

BACKGROUND

The procedural background for the present application was set forth in the decisions mailed on 12 March 2009 and 23 June 2009. The decisions dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements of a grantable request. Specifically, applicants had failed to provide the consent of the assignee to the requested change in inventorship in an acceptable form.

On 14 August 2009, applicants filed the "Second Renewed Petition Request Under 37 CFR 1.497(d)" considered herein.

DISCUSSION

Applicants' first renewed petition, filed 12 May 2009, included a statement of consent to the proposed change in inventorship from assignee MANN+HUMMEL GmbH ("MANN+HUMMEL"). However, as set forth in the previous decision, the consent of the assignee was not acceptable as filed because the assignee had not complied with the requirements of 37 CFR 3.73(b). Specifically, copies of the relevant assignments had not been submitted, as required under 37 CFR 3.73(b)(1)(i).

On 02 July 2009, petitioner filed herein a revised "Statement Under 37 CFR 3.73(b)" accompanied by copies of the relevant assignment documents. Applicant has therefore now complied with the requirements of 37 CFR 3.73(b) with respect to assignee MANN+HUMMEL. Based on such submission, the previously submitted statement of the assignee's consent to the

proposed change of inventorship is now acceptable. Applicants have therefore satisfied the final element of a grantable request under 37 CFR 1.497(d).

CONCLUSION

Applicants' second renewed request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship of record herein is corrected to add Peter KOCH and Jorg WAINUS as additional inventors of record herein.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 May 2009.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95618-7759

In re Application of	:	
LEGATE, STEVE et al	:	DECISION ON REQUEST TO
Application No. 11/994,038	:	PARTICIPATE IN PATENT
Filed: December 27, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. DYC-P23175US	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 14, 2009.

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 EPO or validly claims benefit under 35 U.S.C. 120 to a PCT application;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the EPO application(s);
(3) All the claims in the U.S. application must sufficiently correspond 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);
(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 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 Michael Horabik at 571-272-3068.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

10 MAY 2010

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United States Patent and Trademark Office
Washington, D.C. 20231
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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington DC 20043

In re Application of: PARK, et al.	:	
U.S. Application No.: 11/994,047	:	
PCT Application No.: PCT/KR2005/002188	:	
Int'l Filing Date: 07 July 2005	:	DECISION
Priority Date: 01 July 2005	:	
Attorney's Docket No.: 001333/0014	:	
For: FLAME RETARDANT COMPOSITION FOR CABLE COVERING MATERIAL AND OCEAN CABLE USING THE SAME	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 26 November 2009, which seeks correction of the "Filing or 371(c) Date" from 25 June 2008 to 27 December 2007. No petition fee is required.

BACKGROUND

On 27 December 2007, applicant initiated the present national stage application by submitting, among other materials, a transmittal letter seeking entry into the U.S. national stage for PCT/KR2005/002188, and payment of the basic national fee.

On 20 May 2008, applicant was mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) advising applicant of the need to provide an executed declaration of the inventors.

On 25 June 2008, applicant responded with an executed declaration.

On 31 December 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied as of 25 June 2008. On the same date, a filing receipt was issued identifying the "Filing Or 371(c) Date" as 25 June 2008.

On 26 November 2009, applicants filed the "Request For Corrected Filing Receipt" considered herein. The request seeks, among other corrections, to have the "Filing Or 371(c) Date" identified on the filing receipt changed to 27 December 2007.

On 26 January 2010, 26 April 2010 and 28 April 2010, applicant was mailed corrected filing receipts.

DISCUSSION

The present request seeks to correct the "Filing Or 371(c) Date" from 25 June 2008, the date on which applicant filed the declaration satisfying the requirement of 35 U.S.C. 371(c)(4), to 27 December 2007, the date on which applicants initiated the present national stage application. However, the proper "Filing Or 371(c) Date" for a U.S. national stage application is the date on which the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) are all satisfied, not the date on which the national stage is initiated. **See** MPEP § 1893.03(b).

Accordingly, the 25 June 2008 "Filing Or 371(c) Date" set forth on the original filing receipt mailed 31 December 2008 was proper.

CONCLUSION

Based on the above, the "Request For Corrected Filing Receipt" filed 26 November 2009 is **DISMISSED** without prejudice.

The "Filing Or 371(c) Date" for the present application remains 25 June 2008, the date on which applicant filed the declaration satisfying the requirement of 35 U.S.C. 371(c)(4).

The corrected filing receipt mailed 28 April 2010 is **hereby vacated**.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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17 JUN 2009

SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of KOHSAKA (Deceased) Application No.: 11/994,103 PCT No.: PCT/JP06/312690 Int. Filing Date: 26 June 2006 Priority Date: 01 July 2005 Attorney Docket no.: 43521-6500 For: DRIVING RECORDER	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's request under 37 CFR 1.42 along with an executed declaration filed in the United States Patent and Trademark Office (USPTO) on 17 April 2009.

BACKGROUND

On 27 December 2007, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 23 December 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 17 April 2009, applicant filed a declaration executed by the joint inventors and the legal representative of the deceased inventor.

DISCUSSION

To meet the requirements for compliance with 37 CFR 1.497(a) and (b), the declaration must state the relationship and the country of citizenship for both the deceased inventor and the legal representative. In addition, the declaration must provide the residency and mailing address for both the deceased inventor and the legal representative.

The declaration submitted on 17 April 2009 identifies Keiko Kohsaka as the legal representative of the deceased inventor Hiroji Kohsaka and states the relationship, country of citizenship, residency and mailing address for both the deceased inventor and the legal representative. The declaration meets the requirements for compliance with 37 CFR 1.497(a) and (b). Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED.**

The declaration executed by the joint inventors and by the legal representative for deceased inventor Hiroji Kohsaka submitted on 17 April 2009 is accepted as a proper declaration under 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 17 April 2009.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

6 JUL 2009

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re Application of: BAYDO, Robert, et al. U.S. Application No.: 11/994,164 PCT No.: PCT/US2006/005777 International Filing Date: 17 February 2006 Priority Date: 01 July 2005 Atty's Docket No.: 085516-9035-01 For: INK-JETTABLE FLAVORED FLUIDS FOR PRINTING ON EDIBLE SUBSTRATES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 07 May 2009. Deposit Account No. 13-3080 will be charged the required $200 petition fee.

BACKGROUND

On 17 February 2006, applicants filed international application PCT/US2006/005777. The international application claimed a priority date of 01 July 2005, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 01 January 2008.

On 28 December 2008, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 08 October 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 07 May 2009, applicants filed a response to the Notification Of Missing Requirements (with required five-month extension fee). The response included payment of the required surcharge, a partially executed declaration, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Tony DINH, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have authorized a charge to Deposit Account No. 13-3080 for the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by four of the five inventors of record, and the declaration includes an unsigned signature block for the non-signing inventor, Tony DINH. However, the declaration fails to properly identify the inventors of record herein. Specifically, the declaration identifies the third inventor as Andrea HUTCHISON; the name of record for this inventor, as set forth on the published international application, is Andrea SHAAL. See MPEP section 1893.01(e):

> Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

The difference between the inventor's name listed on the declaration (HUTCHISON) and the inventor's name of record (SHAAL) is more than a mere typographical error. Accordingly, a grantable petition under 37 CFR 1.182 is required to change the name of record for this inventor. Until such a petition is submitted, the present declaration may not be accepted in satisfaction of the declaration requirement. Accordingly, item (3) is not satisfied on the present record.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided a statement from Daniel F. Gloster, accompanied by supporting documents, indicating that a request for signature, accompanied by a copy of the complete application, was been forwarded to the non-signing inventor at his last known address by Mr. Gloster, that the materials were received by the inventor, and that the inventor has failed to provide the requested signature. These materials provide an acceptable showing that the non-signing inventor has refused to execute the application. Item (4) is therefore satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (3) of a grantable petition, as discussed above and in the MPEP, that is, a grantable petition under 37 CFR 1.182 to change the name of record for the third inventor from Andrea SHAAL to Andrea HUTCHISON (so as to permit acceptance of the declaration filed 07 May 2009).

No additional petition fee is required with respect to the renewed petition for revival; however, there is a $400 petition fee applicable to the required petition under 37 CFR 1.182.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

09 SEP 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re Application of: BAYDO, Robert, et al. U.S. Application No.: 11/994,164 PCT No.: PCT/US2006/005777 International Filing Date: 17 February 2006 Priority Date: 01 July 2005 Atty's Docket No.: 085516-9035-01 For: INK-JETTABLE FLAVORED FLUIDS FOR PRINTING ON EDIBLE SUBSTRATES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a) AND PETITION UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" and "Petition Under 37 CRR 1.182" filed 17 August 2009. Applicants have paid the petition fee required with respect to the petition under 37 CFR 1.182; no additional petition fee is required with respect to the renewed petition under 37 CFR 1.47(a).

BACKGROUND

The procedural background for the present application was set forth in the decision mailed 06 July 2009. The decision dismissed without prejudice applicants' petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had not provided an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor. More specifically, the decision indicated that a petition under 37 CFR 1.182 to change the name of record of inventor Andrea SHAAL to Andrea HUTCHISON was required before the declaration filed 07 May 2009 could be accepted.

On 17 August 2009, applicants filed the Renewed Petition Under 37 CFR 1.47(a)" and "Petition Under 37 CRR 1.182" considered herein.

DISCUSSION

1. Petition Under 37 CFR 1.182

Section 605.04(c) of the MPEP sets forth the requirements for a petition under 37 CFR 1.182 to change an inventor's name of record. According to the MPEP, such a petition "must include an appropriate petition fee and a statement signed by the inventor setting forth both

names and the procedure whereby the change of name was effected, or a copy of the court order."

Applicants' present petition under 37 CFR 1.182 is accompanied by payment of the required $400 petition fee and a "Statement From Andrea Hutchison" in which this inventor confirms that, since the time the international application was filed, her name was changed from Andrea SHAAL to Andrea HUTCHISON as a result of marriage. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for this inventor from Andrea SHAAL to Andrea HUTCHISON.

2. Renewed Petition Under 37 CFR 1.47(a)

As noted in the previous decision, applicants have filed declarations executed by the co-operating inventors, and these declarations include an unsigned signature block for the non-signing inventor, Tony DINH as required. Based on the above correction of the name of record for the third inventor, these declarations are no longer defective for failure to properly identify the inventors of record. Accordingly, the declarations may be accepted as having been executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor, satisfying the final outstanding element of a grantable petition under 37 CFR 1.47(a). The renewed petition under 37 CFR 1.47(a) is therefore appropriately granted.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Andrea SHAAL to Andrea HUTCHISON is **GRANTED**.

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of non-signing inventor Tony DINH.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing, including consideration of the additional sequence listing materials filed by applicants on 02 October 2008. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 07 May 2008.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

09 SEP 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Tony DINH
11423 Cypress Woods Drive
San Diego, CA 92131-3535

In re Application of: BAYDO, Robert, et al.
U.S. Application No.: 11/994,164
PCT No.: PCT/US2006/005777
International Filing Date: 17 February 2006
Priority Date: 01 July 2005
Atty's Docket No.: 085516-9035-01
For: INK-JETTABLE FLAVORED FLUIDS FOR PRINTING ON EDIBLE SUBSTRATES

Dear Mr. DINH:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel Of Record:
MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

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ALEXANDRIA, VA 22313-1450
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26 MAR 2009

BOYLE FREDRICKSON S.C.
840 NORTH PLANKINTON AVENUE
MILWAUKEE, WI 53203

In re Application of STEFFEN et al	:	
U.S. Application No.: 11/994,188	:	
PCT Application No.: PCT/EP2006/006372	:	DECISION
Int. Filing Date: 30 June 2006	:	
Priority Date Claimed: 01 July 2005	:	
Attorney Docket No.: 72.119	:	
For: VIBRATING PLATE SYSTEM	:	

This is in response to applicant's correspondence filed 13 August 2008, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 30 June 2006, applicant filed international application PCT/EP2006/006372, which claimed priority of an earlier Germany application filed 01 July 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 01 January 2008.

On 28 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 20 May 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 13 August 2008, applicant filed the present petition under 37 CFR 1.497(d) along with an executed declaration.

DISCUSSION

The petition states that the correct name of the third listed inventor is Thorsten von Richthofen rather than Thorsten Funk.

MPEP 1893.01(e) states in relevant part,

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error. Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such error. See MPEP § 201.03 and § 605.04(g).

In the present case, since there is apparently no change in inventorship, a petition to correct inventorship under 37 CFR 1.497(d) is not appropriate. However, it is unclear from the present petition whether the discrepancy with respect to the third inventor's name was due to a name change or due to a typographical/transliteration error. In the case of a name change, a petition under 37 CFR 1.182 is required. Otherwise, an explanation regarding the circumstances surrounding the error must be furnished.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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17 JUN 2009

BOYLE FREDRICKSON S.C.
840 NORTH PLANKINTON AVENUE
MILWAUKEE, WI 53203

In re Application of STEFFEN et al	:	
U.S. Application No.: 11/994,188	:	
PCT Application No.: PCT/EP2006/006372	:	DECISION
Int. Filing Date: 30 June 2006	:	
Priority Date Claimed: 01 July 2005	:	
Attorney Docket No.: 72.119	:	
For: VIBRATING PLATE SYSTEM	:	

This is in response to applicant's renewed petition under 37 CFR 1.181 filed 04 May 2009.

BACKGROUND

On 30 June 2006, applicant filed international application PCT/EP2006/006372, which claimed priority of an earlier Germany application filed 01 July 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 01 January 2008.

On 28 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 20 May 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 13 August 2008, applicant filed a petition under 37 CFR 1.181 along with an executed declaration.

On 26 March 2009, this Office mailed a decision dismissing the 13 August 2008 petition.

On 04 May 2009, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that the correct name of the third listed inventor is Thorsten von Richthofen rather than Thorsten Funk.

MPEP 1893.01(e) states in relevant part,

> Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error. Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such error. See MPEP § 201.03 and § 605.04(g).

The present renewed petition states that the surname of the third inventor was mistakenly listed as "Funk" in the international application. Because there is no change of inventorship, the present renewed petition serves as proper notification to the Office of the error in accordance with MPEP 1893.01(e).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 June 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 August 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

1 4 APR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
CHUNG et al.	:	
Application No.: 11/994,259	:	DECISION ON PETITION
PCT No.: PCT/KR2006/002570	:	
Int. Filing Date: 30 June 2006	:	UNDER
Priority Date: 30 June 2005	:	
Attorney Docket No.: 09717.0080USWO	:	37 CFR 1.497(d)
For: STABLE WATER SOLUBLE	:	
COMPOSITION CONTAINING	:	
LYSOPHOSPHATIDYLETHANOLAMINE	:	
AND LECITHIN	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 18 March 2008, which has properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 30 June 2006, applicants filed international application PCT/KR2006/002570, which designated the United States and claimed a priority date of 30 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 December 2007 (30 December 2007 being a Sunday).

On 28 December 2007, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 18 March 2008, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.497(d). The petition was accompanied by, a declaration of inventors, a statement from Yeo Rok OH and Ui Chan KOH, a consent of assignee statement, and a statement under 37 CFR 3.73(b).

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in Sec. 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and

(4) Any new oath or declaration required by paragraph (f) of this section.

As to item (1), the petition fee has been charged to Deposit Account 13-2725.

Items (2) and (3) have been satisfied. Item (4) is not required.

The declaration of inventors filed 18 March 2008 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(h) for providing the oath or declaration later than thirty months from the priority date was paid on 18 March 2008.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Guk Hoon CHUNG, Ji Heun HONG, and Young Lae YANG as inventors.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/994,260		Michael Paul Stewart	28365-1	5243

38673 7590 09/21/2009
ROBERT B. REESER, III
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102

EXAMINER	
ART UNIT	PAPER NUMBER
2877	

NOTIFICATION DATE	DELIVERY MODE
09/21/2009	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):

USpatents@armstrongteasdale.com

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www.uspto.gov

ROBERT B. REESER, III
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

In re Application of
Michael Paul STEWART et al.
Application No.: 11/994,260
Filed: 28 December 2007
Attorney Docket No.: 28365-1

For: A SYSTEM AND METHOD FOR MEASURING AND MAPPING A SURFACE RELATIVE TO A REFERENCE

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 14 April 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU, note where the IPAU 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 IPAU application with similar claims and the IPAU priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the IPAU 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;
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 IPAU application(s) and
b. Submit a claims correspondence table;

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 IPAU 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 IPAU application is a first action allowance then no office action from the IPAU is necessary should be indicated on the request/petition form;

   Further, if a copy of the documents from i) or ii) 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;
6. Applicant must submit:
   a. An IDS listing the documents cited by the IPAU examiner in the IPAU office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Michael Day at 571/272-1568.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application will be forwarded to the examiner for action on the merits commensurate with this decision once this application's formality reviews have been completed.

Michael Day
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/994,260		Michael Paul Stewart	28365-1	5243

38673 7590 10/01/2009
ROBERT B. REESER, III
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102

EXAMINER

ART UNIT	PAPER NUMBER
2877	

NOTIFICATION DATE	DELIVERY MODE
10/01/2009	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):

USpatents@armstrongteasdale.com

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Alexandria, VA 22313-1450
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ROBERT B. REESER, III
C/O ARMSTRONG TEASDALE, LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63101
UNITED STATES

In re Application of	**: DECISION ON REQUEST TO**
Michael Paul STEWART, et al.	**: PARTICIPATE IN THE PATENT**
Application No.: 11/994,260	**: PROSECUTION HIGHWAY PILOT**
Filed: October 20, 2005	**: PROGRAM AND PETITION**
Attorney Docket No.: 28365-1	**: TO MAKE SPECIAL UNDER**
For: A SYSTEM AND METHOD FOR MEASURING AND MAPPING A SURFACE RELATIVE TO A REFERENCE	**: 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 14 April 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 IPAU, 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 IPAU, 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 IPAU, 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. Applicant must submit a copy of the allowable claims from the IPAU application(s), or
    b. If the IPAU office action does not explicitly state that a particular claim is allowable, applicant must include a statement in the request for participation in the PPH pilot program that no rejection has been made in the IPAU office action regarding that claim and therefore, the claim is deemed allowable by IPAU.
3. Applicant must:
    a. Ensure all the claims in the U.S. application sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU 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. Applicant must submit a copy of all patentability relevant office actions from each of the IPAU application(s) containing the allowable claims that are the basis for the request.
    b. Applicant must submit copies of any patentability relevant office actions from the IPAU application(s) issued after the grant of the request for participation in the PPH pilot program in the USPTO,
6. Applicant must submit:
    a. An IDS listing the documents cited by the IPAU examiner in the IPAU office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

This request to participate in the PPH pilot program and petition is assessed as follows:

Conditions 1, 2 and 4-7 above are considered to have been met.
However the request to participate in the PPH program fails to meet condition 3.

Regarding condition 3, Petitioner has not amended the claims of the instant U.S. application to sufficiently correspond to the allowable claims of the IPAU application 2005333891. Claim 19 of the instant U.S. application recites "determining the position of the base reference at the other opposing end by adding D to the determined position of the base reference" in lines 13-14 while claim 15 of the above-identified IPAU application recites "determining the position of the base reference at the other opposing end by adding to the outcome of a. above (which is equivalent to

"the determined location of all corners within one vertical plane of visible segments all around the shell" of part (a) of claim 14) in lines 15-16 and the difference thereof differs in scope. Claim 51 of the instant U.S. application recites "wherein said referencing means includes a means for orientating said point cloud data relative to said key reference data of the opposing ends and a means for transforming said point cloud data into a co-ordinate system coinciding with said base reference data for each opposing end, respectively" in lines 1-4 while claim 18 of the above-identified IPAU application recites "wherein said referencing means includes an orientating process to apply a functional model to orientate said point cloud data relative to said key reference data of the opposing ends and to transform the point cloud of data into a co-ordinate system coinciding with said base reference data for each opposing end, respectively" in lines 1-5 and the difference thereof differs in scope.

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 Brian Sircus at (571) 272-2058.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

Brian Sircus
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of UESUGI et al	:	
U.S. Application No.: 11/994,288	:	
PCT Application No.: PCT/JP2006/312097	:	
Int. Filing Date: 16 June 2006	:	DECISION
Priority Date Claimed: 30 June 2005	:	
Attorney Docket No.: 072652	:	
For: ROLLER SCREW AND METHOD OF PRODUCING THE SAME	:	

This is in response to applicant's petition under 37 CFR 1.47(a) filed 24 April 2009.

BACKGROUND

On 16 June 2006, applicant filed international application PCT/JP2006/312097, which claimed priority of an earlier Japan application filed 30 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 30 December 2007.

On 28 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 April 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has not submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Satoshi Fujita cannot be located and refuses to sign. Because inventor Fujita was successfully reached by telephone (see affidavit of Hiroyuki Arai, ¶5), it would not be reasonable to conclude that inventor Fujita cannot be reached. Regarding inventor Fujita's purported refusal to sign, petitioner has not adequately demonstrated that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and declaration) to inventor Fujita for signature. In particular, although declaration and assignment forms were mailed to inventor Fujita (see affidavit of Toshiyuki Shiojima, ¶¶4-5), there is no evidence that the specification, claims, and drawings were ever sent to inventor Fujita. Until applicant sufficiently demonstrates that a bona fide attempt was made to present a complete copy of the application papers to inventor Fujita for signature, petitioner's allegation of inventor Fujita's refusal to sign will not be accepted.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of UESUGI et al	:	
U.S. Application No.: 11/994,288	:	
PCT Application No.: PCT/JP2006/312097	:	
Int. Filing Date: 16 June 2006	:	DECISION
Priority Date Claimed: 30 June 2005	:	
Attorney Docket No.: 072652	:	
For: ROLLER SCREW AND METHOD OF PRODUCING THE SAME	:	

This is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 22 July 2009.

BACKGROUND

On 16 June 2006, applicant filed international application PCT/JP2006/312097, which claimed priority of an earlier Japan application filed 30 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 30 December 2007.

On 28 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 April 2009, applicant filed a petition under 37 CFR 1.47(a).

On 16 June 2009, this Office mailed a decision dismissing the 24 April 2009 petition.

On 22 July 2009, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be

reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (3) and (4) above.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The renewed petition states that joint inventor Satoshi Fujita refuses to sign. Petitioner has adequately demonstrated that a bona fide attempt was made to present inventor Fujita with a copy of the application papers for signature in that inventor Fujita refused to provide a current mailing address to which such application papers could be sent (see affidavit of Hiroyuki Arai, ¶5). Furthermore, the petition sufficiently demonstrates that inventor Fujita refuses to sign. In particular, inventor Fujita made an express oral refusal to sign during a telephone conversation

with Hiroyuki Arai (see Arai affidavit, ¶5). Thus, it can be concluded with reasonable certainty that inventor Fujita refuses to join in the application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 16 June 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 July 2009.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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Satoshi Fujita
128-1-303, Hazukashishimizucho, Fushimi-ku
Kyoto-shi, Kyoto, 612-8485
JAPAN

In re Application of UESUGI et al
U.S. Application No.: 11/994,288
PCT Application No.: PCT/JP2006/312097
Int. Filing Date: 16 June 2006
Priority Date Claimed: 30 June 2005
For: ROLLER SCREW AND METHOD OF PRODUCING THE SAME

Dear Satoshi Fujita:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036
Attorney Docket No.: 072652

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1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of UESUGI et al	:	
U.S. Application No.: 11/994,288	:	
PCT Application No.: PCT/JP2006/312097	:	
Int. Filing Date: 16 June 2006	:	DECISION
Priority Date Claimed: 30 June 2005	:	
Attorney Docket No.: 072652	:	
For: ROLLER SCREW AND METHOD OF	:	
PRODUCING THE SAME	:	

This is in response to applicant's request for refund filed 28 July 2009.

BACKGROUND

On 16 June 2006, applicant filed international application PCT/JP2006/312097, which claimed priority of an earlier Japan application filed 30 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 30 December 2007.

On 28 December 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 April 2009, applicant filed a petition under 37 CFR 1.47(a).

On 16 June 2009, this Office mailed a decision dismissing the 24 April 2009 petition.

On 22 July 2009, applicant filed a renewed petition under 37 CFR 1.47(a).

On 28 July 2009, applicant filed the present request for refund.

DISCUSSION

37 CFR 1.26 states in relevant part,

> (a) The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee. . . .
> (b) Any request for refund must be filed within two years from the date the fee was paid, except as otherwise provided in this paragraph or in § 1.28(a). If the Office charges a deposit account by an amount other than an amount specifically indicated in an authorization (§ 1.25(b)), any request for refund based upon such charge must be filed within two years from the date of the deposit account statement indicating such charge, and include a copy of that deposit account statement. The time periods set forth in this paragraph are not extendable.

A review of the application file reveals that applicant paid the fee for the petition under 37 CFR 1.47(a) on 24 April 2009. Applicant submitted an additional petition fee on 22 July 2009. The second petition fee was not required and is therefore refundable in accordance with 37 CFR 1.25(a). The request for refund was filed within the time period set forth in 37 CFR 1.26(b).

CONCLUSION

For the reasons above, the request for refund is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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United States Patent and Trademark Office
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CARRIER BLACKMAN & ASSOCIATES, P.C.
24101 Novi Road, Suite 100
Novi, Michigan 48375

JAN 29 2008

In re Application of	:	DECISION ON REQUEST TO
Satoshi YONEZAWA	:	PARTICIPATE IN PATENT
Application No. 11/994349	:	PROSECUTION HIGHWAY
Filed: December 31, 2007	:	PILOT PROGRAM AND PETITION
Attorney Docket No. KNJ-273-A	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 31, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kathryn Gorgos
TQAS TC 1700

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2 2 MAY 2009

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	: DECISION ON
Howes et al	:
PCT No.: PCT/GB2005/002837	:
Application No: 11/994,361	:
Int. Filing Date: 21 July 2005	: PETITION UNDER
Priority Date: NA	:
Attorney's Docket No.: 22900-757US1 P11235	:
For: PACKAGING WITH SEALING...	:
FILLING THE PACKAGE	: 37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a) and the SUPPLEMENTAL TO PETITON UNDER 37 CFR 1.47(a)" filed on 11 September 2008 and 20 November 2008, respectively. The petition fee of 200.00 has been charged to petitioner's Deposit Account.

BACKGROUND

On 21 July 2005, applicants filed international application PCT/GB2005/002837. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 25 January 2007.

On 31 December 2007, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter.

On 13 May 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date." The Notice stated that the declaration must be submitted within two months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 11 September 2008 and 20 November 2008, petitioner filed the present petitions, a declaration in support of filing on behalf of omitted inventor Mr. Andrew Howes accompanied, inter alia, an executed Declaration without the signature of Mr. Andrew Howes.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1) - (3) of 37 CFR 1.47(a), but item (4) has not been satisfied.

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(g).

Regarding item (2), the averments of Ms. Horsfield are sufficient to support a finding that the nonsigning inventor, Mr. Howes refuses to sign because a copy of the patent application papers (PCT application WO2007/010174) and the declaration were mailed to Mr. Howes for his execution on 6 May 2008 and to this date he has not responded. Ms. Horsfield has provided a copy of the cover letter and the special delivery coupon confirming that Mr. Howes received the application papers on 7 May 2008.

Regarding requirement (3), petitioner has provided a statement of the last known address of the missing inventor.

> Mr. Andrew Howes
> 60 Ashtree Road
> New Costessey
> Norwich NR5 0LR
> United Kingdom

Regarding item (4), petitioner has not satisfied it because the executed declaration provided of the inventors is not acceptable at this time, in that the name of the second named inventor/applicant listed in the international application, HUBBARD, Steel, has been deleted in the filed executed declaration. Applicants have not provided proper documentation, such as PCT/IB/306, supporting the deletion of the inventor.

Applicants will need to file a statement of deleting an inventor under 37 CFR. 1.497(d). A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

Alternatively, applicants may provide a showing that deleted inventor HUBBARD, Steel was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

Accordingly, petitioner has not satisfied item (4) under 37 CFR 1.47(a), thus not completing the requirements under 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petitions under 37 CFR 1.47(a) are desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT and TRADEMARK OFFICE

0 9 SEP 2009

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	DECISION ON
Howes et al	
Application No: 11/994,361	
PCT No.: PCT/GB2005/002837	
Int. Filing Date: 21 July 2005	PETITION UNDER
Priority Date: NA	
Attorney's Docket No.: 22900-757US1 P11235	
For: PACKAGING WITH SEALING...	
FILLING THE PACKAGE	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 09 July 2009.

BACKGROUND

In a decision from this Office mailed on 22 May 2009, the decision indicated that the petition filed on 11 September 2008 was dismissed because the petition did not satisfy item (4) under 37 CFR 1.47(a). The Decision stated that it did not provide the proper documentation, such as PCT/IB/306, supporting the deletion of the inventor, HUBBARD, Steel.

On 09 July 2009, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a), requesting the acceptance of the executed declaration without the signature of joint inventor Mr. Andrew Howes and the deletion of inventor HUBBARD, Steel from the declaration.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

The renewed petition of 09 July 2009 has still not satisfied item (4) under 37 CFR 1.47(a).

Petitioner has still not satisfied item (4) of 37 CFR 1.47(a) because the executed declaration provided of the inventors is not acceptable at this time, in that the name of the second named inventor/applicant listed in the international application, HUBBARD, Steel, has been deleted in the filed executed declaration. Petitioner has neither provided the proper documentation, such as PCT/IB/306, supporting the deletion of the inventor nor complied with items under 37 CFR 1.497(d). In addition, Craig M Bowers does not appear to have apparent authority.

37 CFR 1.497(d)

Applicants still have not complied for deleting an inventor under 37 CFR. 1.497(d). A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

In regard to item (3), Reckitt Benckiser Healthcare (UK), the assignee, consents to the deletion of HUBBARD Steel. However, there is no copy of the executed assignment to the assignee in the file. To establish the right of the Assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

In addition, the request by the assignee reveals that Craig M Bowers, who is signing on behalf of the assignee, does not have apparent authority because there is no affirmative statement by him that he is authorized to sign on behalf of the assignee. His signature above "authorized signatory" does not meet this requirement. Note MPEP 1820.

Accordingly, applicant is deemed not to satisfy requirement (3) under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Accordingly, petitioner has not satisfied item (4) under 37 CFR 1.47(a), thus not completing the requirements under 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petitions under 37 CFR 1.47(a) are desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled " Second Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	DECISION ON
Howes et al	
Application No: 11/994,361	
PCT No.: PCT/GB2005/002837	
Int. Filing Date: 21 July 2005	PETITION UNDER
Priority Date: NA	
Attorney's Docket No.: 22900-757US1 P11235	37 CFR 1.47(a) AND
For: PACKAGING WITH SEALING...	
FILLING THE PACKAGE	37 CFR 1.497(d)

This is in response to the "SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 21 October 2009.

BACKGROUND

In a decision from this Office on 09 September 2009, the request under 37 CFR 1.497(d) and the petition under 37 CFR 1.47(a) were dismissed.

On 21 October 2009, petitioner submitted a "second renewed petition under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 09 September 2009 with respect to accepting the above application without the signature of Mr. Andrew Howes, and the deletion of Mr. Steel Hubbard from the executed declaration.

DISCUSSION

REQUEST UNDER 37 CFR 1.497(d):

A review of the renewed request reveals that applicants have satisfied items (1) - (3) of 37 CFR 1.497(d).

In regard to item (3), applicants have provided a copy of the executed assignment to the assignee, Reckitt Benckiser Healthcare (UK). In addition, with respect to the consent of the assignee, Mr. Bowers, contains an affirmative statement that he is authorized to sign on behalf of the assignee, in the revised consent document, and consents to the deletion of co-inventor Steel Hubbard.

Accordingly, the request is deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

For the reasons above, the request under 37 CFR 1.497(d) is **GRANTED.**

PETITION UNDER 37 CFR 1.47(a):

Petitioner has now satisfied item (1) –(4) of 37 CFR 1.47(a).

Regarding requirement (4), petitioner has provided a properly executed declaration as the assignee consents to the deletion of Mr. Steel Hubbard.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED.**

The petition under 37 CFR 1.47(a) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **11 September 2008.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-6312
Facsimile: (571) 273-0459

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0 4 FEB 2010

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Mr. Andrew Howes
60 Ashtree Road
New Costessey
Norwich NR5 0LR
United Kingdom

In re Application of
Howes et al
Application No: 11/994,361
PCT No.: PCT/GB2005/002837
Int. Filing Date: 21 July 2005
Priority Date: NA
Attorney's Docket No.: 22900-757US1 P11235
For: PACKAGING WITH SEALING...
FILLING THE PACKAGE

Dear: Howes

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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STEVE A. MOORE
FOLEY & LARDNER, LLP
11250 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

MAILED

MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Sheldon **GILBERT**	:	
Application No. 11/944,362	:	DECISION ON PETITION TO
Filed: November 21, 2007	:	WITHDRAW FROM RECORD
Attorney Docket No. **43351-0005-2**	:	

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 17, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Steve Moore of FOLEY & LARDNER, LLP 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 the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **HELLER EHRMAN LLP**
4350 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

3 0 MAY 2008

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Themis Intellectual Property Counsel
7660 Fay Ave Ste H378
La Jolla CA 92037

In re Application of RIGHETTO Application No.: 11/994,423 PCT No.: PCT/EP05/56557 Int. Filing: 07 December 2005 Priority Date: 07 December 2004 Attorney Docket No.: 07KAR011 For: FOOTWEAR SOLE AND FOOTWEAR HAVING SAID SOLE	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 02 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $155 has now been provided. The required petition fee of $770 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 02 February 2008.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Stephen A. Bent
Foley & Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

In re Application of	:	
TOKIDA, et al.	:	DECISION ON PETITION
Serial No.: 11/994,437	:	
PCT No.: PCT/JP06/313337	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 04 July 2006	:	
Priority Date: 04 July 2005	:	
Atty Docket No.: 028567-0153	:	
For: MUTANT PCNA	:	

This decision is in response to applicant's petition under 37 CFR 1.47(a) filed 02 September 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Akira Kawamura.

BACKGROUND

On 04 July 2006, applicant filed international application PCT/JP06/313337 which claimed priority to a previous application filed 04 July 2005. A copy of the international application was transmitted to the USPTO from the International Bureau (IB) on 11 January 2007. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 04 January 2008.

On 02 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application, a preliminary amendment and an Information Disclosure Statement.

On 02 September 2008, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 3 and 4.

As to item (2), applicant has included an exhibit which provides a firsthand account of the refusal of inventor Kawamura to execute the declaration. However, the attachment is not signed. Therefore, it is not clear who is providing the details of the refusal.

MPEP 409.03 states, "Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

The pdf file for the petition indicates 7 pages on the electronic acknowledgment receipt. The file contains a three page petition and the four page exhibit absent a signature page. It appears that the signature page was inadvertently not provided.

As such, the petition cannot be granted at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

1 2 JAN 2009

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Washington, D.C. 20231
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Stephen A. Bent
Foley & Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

In re Application of	:	
TOKIDA, et al.	:	DECISION ON PETITION
Serial No.: 11/994,437	:	
PCT No.: PCT/JP06/313337	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 04 July 2006	:	
Priority Date: 04 July 2005	:	
Atty Docket No.: 028567-0153	:	
For: MUTANT PCNA	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 21 November 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Akira Kawamura.

BACKGROUND

On 25 September 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 21 November 2008, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

As detailed in the decision mailed 25 September 2008, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

With the filing of the renewed petition and accompanying exhibit applicant has satisfied the remaining item and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 04 July 2006 under 35 U.S.C. 363, and will be given a date of **02 September 2008** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

12 JAN 2009

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Akira Kawamura
Imperial Hotel Tower 8F
1-1-1 Uchisaiwaicho, Chiyoda-ku
TOKYO, 100-0011
JAPAN

In re Application of
TOKIDA, et al.
Serial No.: 11/994,437
PCT No.: PCT/JP06/313337
Int. Filing Date: 04 July 2006
Priority Date: 04 July 2005
Atty Docket No.: 028567-0153
For: MUTANT PCNA

Dear Mr. Kawamura:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Stephen A. Bent
Foley & Lardner, LLP
Suite 500
3000 K Street, NW
Washington, DC 20007
United States of America

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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.
11/994,448		Yoshitsugu KITAMURA	072667	8748

38834 7590 03/31/2008
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER

ART UNIT	PAPER NUMBER
2871	

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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036
UNITED STATES

In re Application of	**: DECISION ON REQUEST TO**
Yoshitsugu KITAMURA et al.	**: PARTICIPATE IN THE PATENT** APR - 1 2008
Application No.: 11/994,448	**: PROSECUTION HIGHWAY**
Filed: January 2, 2008	**: PILOT PROGRAM AND PETITION**
Attorney Docket No.: 072667	**: TO MAKE SPECIAL UNDER**
For: POLARIZING PLATE WITH OPTICAL COMPENSATION LAYER AND IMAGE DISPLAY APPARATUS USING THE SAME	**: 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 3, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH pilot program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must:

a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
      ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

      Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
   b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
   c. A statement that the English translation is accurate;
6. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
   b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Brian Sircus at 571 272 2058.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Brian Sircus
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Rolf Larsson :
Application No. 11/994,457 :
Filed: July 7, 2008 :
Attorney Docket No. LARSSON=5

NOTICE

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**.

Telephone inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

15 JUL 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of: ASHIZAWA, Kazuhide, et al. U.S. Application No.: 11/994,494 PCT No.: PCT/JP2006/314212 International Filing Date: 12 July 2006 Priority Date: 15 July 2005 Atty Docket No.: 0152-0710PUS2 For: 1-BENZYL-4-[(5,6 DIMETHOXY-1-INDANON)-2-YL]-METHYL PIPERDINE P-TOLUENE-SULFONATE OR CRYSTAL THEREOF	DECISION

This decision is issued in response to the "Request For Corrected Notification Of Acceptance" filed 22 August 2007, treated herein in part as a petition under 37 CFR 1.181 to correct the "Date Of Completion Of All 35 U.S.C. 371 Requirements" listed on the 'Notification Of Acceptance" (Form PCT/DO/EO/903) mailed 27 March 2009. No petition fee is required.

BACKGROUND

On 12 July 2006, applicants filed international application PCT/JP2006/314212. The international application claimed a priority date of 15 July 2005, and it designated the United States. On 25 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was 15 January 2008, i.e., thirty months from the priority date.

On 02 January 2008, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an executed declaration.

On 27 March 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements as 02 January 2008 and the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 15 January 2008. Also on 27 March 2009, a filing receipt was issued that identified the "Filing Date or 371(c) Date" as 02 January 2008.

On 09 April 2009, applicants filed the "Request For Corrected Notification Of Acceptance" considered herein.

DISCUSSION

The present petition requests a corrected Notification Of Acceptance identifying the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 02 January 2008.

As set forth on the Notification Of Acceptance mailed herein on 27 March 2009, the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 January 2008; however, as discussed in MPEP 1893.03(b), the "Date Of Completion Of all 35 U.S.C. 371 Requirements" listed on the Notification Of Acceptance is not necessarily the same date as the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). Rather, the MPEP sets forth the following criteria for determining the correct "Date Of Completion Of All 35 U.S.C. 371 Requirements:"

> The "Date of Completion of all 35 U.S.C. 371 Requirements" included on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) is ... the latest of:
>
> (A) the date of submission of the basic national fee;
>
> (B) the date of submission or communication of the copy of the international application;
>
> (C) the date of submission of the translation of the international application if the international application is not in the English language;
>
> (D) the date of submission of an oath or declaration of the inventor in compliance with 35 U.S.C. 371 (c)(4) (see 37 CFR 1.497(c) for an explanation of when an oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4));
>
> (E) the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date (Form PCT/DO/EO/903 will indicate the date early processing was requested);
>
> (F) if a request for early processing has not been requested prior to 30 months from the priority date, the date of submission of any translation of the annexes to the international preliminary examination report if the translation of the annexes are filed within the time period set in a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring either an English translation of the international application or an oath or declaration; and
>
> (G) the date of submission of any surcharge for submitting the oath or declaration later than 30 months from the priority date.

Applicant here did not request early processing of the application under 35 U.S.C. 371(f). Accordingly, based on the MPEP criteria (specifically, element "E"), the correct "Date Of Completion Of All 35 U.S.C. 371 Requirements" is 15 January 2008, that is, 30 months from the priority date.

Based on the above, the listing of 15 January 2008 as the "Date Of Completion Of All 35 U.S.C. 371 Requirements" on the Notification Of Acceptance mailed 27 March 2009 was correct; therefore, applicants' request that this date be corrected to 02 January 2008, a date prior to "the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f)," is appropriately dismissed.

CONCLUSION

The petition to correct the "Date Of Completion Of All 35 U.S.C. 371 Requirements" is **DISMISSED** without prejudice.

The Notification Of Acceptance mailed 27 March 2009 properly identifies the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements as 02 January 2008 and the "Date Of Completion Of All 35 U.S.C. 371 Requirements" as 15 January 2008.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

2 3 JUN 2009

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53080
McDermott Will & Emery LLP
600 13th Street, NW
Washington, D.C. 20005-3096

In re Application of OKAZAKI et al. U.S. Application No.: 11/994,562 PCT No.: PCT/JP2007/052507 International Filing Date: 13 February 2007 Priority Date: 14 February 2006 Attorney's Docket No.: 074782-0034 For: ELECTRODE FOR NONAQUEOUS ELECTROLYTE SECONDARY BATTERY, METHOD FOR PRODUCING SAME, AND NONAQUEOUS ELECTROLYTE SECONDARY BATTERY COMPRISING SUCH ELECTRODE FOR NONAQUEOUS ELECTROLYTE SECONDARY BATTERY	:	DECISION

This decision is issued in response to the "Request for Corrected Filing Receipt" filed 18 February 2009 which has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 03 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; an English translation of the international application; a preliminary amendment; and an executed declaration and power of attorney.

On 27 January 2009, the DO/EO/US mailed a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying 18 July 2006 as the date of receipt of the 35 U.S.C. 371 requirements. Subsequently, a filing receipt was mailed to applicants. This filing receipt identified the "filing date" as 18 July 2006.

On 18 February 2009, applicant filed the "Request for Corrected Filing Receipt" considered herein, which requests that the filing date of 18 July 2006 be changed to 03 January 2008.

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 18 July 2006 to 03 January 2008. The actual filing date of the present application is the international filing date, i.e., 13 February 2007. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) for entry into the national stage were completed. (See MPEP §1893.03(b))

A review of the application file reveals that the basic national fee; English translation of the international application; a copy of the international application; and a declaration of inventorship were filed with the USPTO on 03 January 2008, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 03 January 2008 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 03 January 2008. (See MPEP section 1893.03(b)).

The record will be corrected to indicate that the present application is the national stage of PCT/JP2007/052507 with an international filing date of 13 February 2007 and a priority claim to JP 2006-036279 (14 February 2006).

CONCLUSION

Applicant's request for a corrected Notification of Acceptance and Official Filing Receipt under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed on 27 January 2009 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 03 January 2008 under 35 U.S.C. 371(c).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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OCT 22 2009

OFFICE OF PETITIONS

BECK & THOMAS, PC
SUITE 100
1575 MCFARLAND ROAD
PITTSBURGH, PA 15216-1808

In re Application of	:	
Gerrit Jan De Wilde	:	
Application No. 11/994,563	:	DECISION ON PETITION
Filed: July 21, 2008	:	TO WITHDRAW
Attorney Docket No. 080014	:	FROM RECORD
	:	

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 2, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beck & Thomas, PC has been revoked by the applicant of the patent application on September 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 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: COHEN & GRIGSBY, PC
625 LIBERTY AVENUE
PITTSBURGH, PA 15222-3152

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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.
11/994,589	01/03/2008	Rifat Ata Mustafa Hikmet	000214 US1	9826

24737 7590 11/13/2009
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
VU, PHU

ART UNIT	PAPER NUMBER
2871	

MAIL DATE	DELIVERY MODE
11/13/2009	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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re application	:	
Hikmet, Rifat Ata Mustafa, et al.	:	NOTICE OF WITHDRAWAL
Application No.: 11/994589	:	FROM ISSUE
Filed: 01/03/2008	:	UNDER 37 CFR 1.313
Attorney Docket No: 000214 US1	:	
For: CONTROLLING SHAPE AND DIRECTION OF LIGHT	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 23, 2009 are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquiries should be directed to Supervisory Patent Examiner David Nelms at (571) 272-1787.

The above identified application is being forwared to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard Seidel, Director
Technology Center 2800

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BECK & THOMAS, P.C.
SUITE 100
1575 MCFARLAND ROAD
PITTSBURGH, PA 15216-1808

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OFFICE OF PETITIONS

In re Application of	:	
Gerrit Jan De Wilde	:	
Application No. 11/994,612	:	DECISION ON PETITION
Filed: July 23, 2008	:	TO WITHDRAW
Attorney Docket No. 080013	:	FROM RECORD
	:	

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 2, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beck & Thomas, PC has been revoked by the applicant of the patent application on September 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 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: COHEN & GRIGSBY, PC
625 LIBERTY AVENUE
PITTSBURGH, PA 15222-3152

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SUITE 100
PITTSBURGH, PA 15216-1808

In re Application of	:	
Gerrit Jan De Wilde	:	
Application No. 11/994,614	:	DECISION ON PETITION
Filed: July 21, 2008	:	TO WITHDRAW
Attorney Docket No. 080012	:	FROM RECORD
	:	

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 2, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beck & Thomas, PC has been revoked by the applicant of the patent application on September 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 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: COHEN & GRIGSBY, PC
625 LIBERTY AVENUE
PITTSBURGH, PA 15222-3152

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In re Application of	:	
Gerrit Jan De Wilde	:	
Application No. 11/994,615	:	DECISION ON PETITION
Filed: July 21, 2008	:	TO WITHDRAW
Attorney Docket No. 080011	:	FROM RECORD
	:	

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 2, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beck & Thomas, PC has been revoked by the applicant of the patent application on September 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 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: COHEN & GRIGSBY, PC
625 LIBERTY AVENUE
PITTSBURGH, PA 15222-3152

0 9 MAY 2008

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BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO IL 60690

In re Application of	:	
BREUILLE, et al.	:	
Application No.: 11/994,617	:	
PCT No.: PCT/EP06/63229	:	DECISION ON PETITION
Int. Filing Date: 14 June 2006	:	
Priority Date: 14 June 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 112701-861	:	
For: NUTRITIONAL METHOD	:	

The petition to revive under 37 CFR 1.137(b) filed 03 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided proper deposit account information for the charging of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/994,624		Yutaka MURAKAMI	L9289.07241	1113

52989 7590 06/25/2008
DICKINSON WRIGHT PLLC
1901 L STREET NW
SUITE 800
WASHINGTON, DC 20036

EXAMINER	
ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
06/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JUN 25 2008

TECHNOLOGY CENTER 2100

DICKINSON WRIGHT PLLC
1901 L STREET NW
SUITE 800
WASHINGTON DC 20036

In re Application of: Yutaka MURAKAMI
Application No. 11/994,624
Filed: January 3, 2008
For: TRANSMITTER APPARATUS AND MULTIANTENNA TRANSMITTER APPARATUS

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 May 5, 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) Claim 4 of the instant application differs in scope form the corresponding claim 1 of the Japanese allowed application, in that claim 4 of the instant application recites "one stream of data sequence" and "modulation methods" in the claim, whereas the corresponding limitations in the translated Japanese claim 1 recites "one data sequence" and "modulation schemes".

2) Claims 5 and 6 also recite "modulation methods" in the claim whereas the corresponding limitations in the translated Japanese claims 2 and 3 recite "modulation schemes".

3) Claim 7-9 recite that "one symbol is composed by collecting bits each belonging to one or more error correction coded data" whereas the corresponding limitations in the translated Japanese claim 4 recites "one symbol is comprised of bits of more error correction coded data".

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 submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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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.
11/994,624		Yutaka MURAKAMI	L9289.07241	1113

52989 7590 09/16/2008
DICKINSON WRIGHT PLLC
1901 L STREET NW
SUITE 800
WASHINGTON, DC 20036

EXAMINER

ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
09/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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SEP 15 2008

TECHNOLOGY CENTER 2100

DICKINSON WRIGHT PLLC
1901 L STREET NW
SUITE 800
WASHINGTON DC 20036

In re Application of: MURAKAMI
Application No. 11/994,624
Filed: January 3, 2008
For: TRANSMITTER APPARATUS AND MULTIANTENNA TRANSMITTER APPARATUS

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 May 5, 2008, and the request for reconsideration of adverse decision filed July 22, 2008,to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

In response to the petition decision mailed on May 16, 2008, applicant submitted a renewed petition including a document that contained the allowable claim 8 in the Japanese Language with a corresponding translation in English. Accordingly, the request to participate in the PPH pilot program and petition comply with the above requirements, and the above-identified application has been accorded "special" status.

The request and petition are **GRANTED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Mano Padmanabhan

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 30 2009

OFFICE OF PETITIONS

In re Application of	:	
GASCA, Jean-Philippe et al.	:	
Application No. 11/994,709	:	DECISION ON PETITION
Filed: May 05, 2008	:	TO WITHDRAW
Attorney Docket No. **26242**	:	FROM RECORD
	:	

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 16, 2009.

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 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. has been revoked by the assignee of the patent application on November 18, 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/
Paralegal Specialist
Office of Petitions

cc: **OWENS CORNING**
2790 COLUMBUS ROAD
GRANVILLE OH 43023

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United States Patent and Trademark Office
P.O. Box 1450
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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Anthony Murray, et al.	:	
Application No. 11/994,728	:	DECISION DISMISSING PETITION
Filed: July 9, 2008	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 7209.204-US	:	

This is a decision on the petition under 37 CFR 1.313(a), filed March 18, 2009, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on January 2, 2009, with the issue fee being due on or before April 2, 2009. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Terri Williams at (571) 272-2991.

The matter is being referred to Technology Center AU 1626 for appropriate processing of the RCE filed March 18, 2009, and for consideration of the concurrently filed Information Disclosure Statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

1 3 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Huntsman International LLC
Legal Department
10003 Woodloch Forest Drive
The Woodlands, TX 77380

In re Application of	:	
TZIKAS et al.	:	
U.S. Application No.: 11/994,732	:	
PCT No.: PCT/EP06/63625	:	
Int. Filing Date: 28 June 2006	:	DECISION ON PETITION
Priority Date: 06 July 2005	:	(37 CFR 1.182)
Attorney Docket No.: TE 923349	:	
For: MIXTURES OF REACTIVE DYES AND THEIR USE	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182" filed 12 June 2008 that seeks to correct the international application number on the national stage application papers filed 04 January 2008 so as to allow such materials to be treated as the U.S. national stage of PCT/EP06/63625. The $400 petition fee has been submitted.

BACKGROUND

On 28 June 2006, applicants filed international application PCT/EP06/63625, which claimed a priority date of 06 July 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 06 January 2008.

On 04 January 2008, applicants filed electronically a U.S. national stage application that included, among other materials, payment of the U.S. basic national fee. The submission was assigned U.S. application number 11/994,732.

The materials filed 04 January 2008 included a declaration/power of attorney that identified the application as a U.S. national stage of PCT/EP06/63625, filed 28 June 2006. The bibliographic data entered by applicants as part of the electronic filing identified the application as a U.S. national stage of PCT/EP06/06325. Thus, applicants' 04 January 2008 filing included conflicting instruction that identified the submission as a U.S. national stage of two different international applications: PCT/EP06/06325 and PCT/EP06/63625.

Based on United States Patent and Trademark Office (USPTO) processing procedures, the application file was initiated in the USPTO PALM system as a U.S. national of PCT/EP06/06325, the international application number set forth in the bibliographical data provided by applicant when filing the electronic application.

DISCUSSION

As noted above, the bibliographical data provided by applicant incorrectly identified the international application to which the submission was directed. Correction of this error is required before the materials filed 04 January 2008 can be treated as having been directed to international application PCT/EP06/63625, as necessary to avoid abandonment of the international application with respect to the United States.

In the present petition filed 12 June 2008, applicants confirm that the listing of international application PCT/EP06/06325 set forth in the bibliographical data provided by applicant was the result of a typographical error, and that the correct international application is PCT/EP06/63625. It is noted that the correct international application number was listed on the declaration/power of attorney filed 04 January 2008, and it is accompanied by payment of the required petition fee that properly identifies the application as the national stage of PCT/EP06/63625. These materials satisfy the requirements for a grantable petition to correct the typographical error in the bibliographical data filed 04 January 2008 and to permit such materials to be treated as having been directed to international application PCT/EP06/63625.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The materials filed 04 January 2008 have been assigned U.S. application number 11/994,732, and will be treated as the national stage of PCT/EP06/63625.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

26 JAN 2009

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Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of	:	
ONG, et al.	:	
Application No.: 11/994,829	:	
PCT No.: PCT/SG05/00222	:	DECISION ON PAPERS
Int. Filing Date: 06 July 2005	:	
Priority Date: None	:	UNDER 37 CFR 1.42
Attorney Docket No.: 284502001600	:	
For: WATER TREATMENT PROCESS	:	

This decision is in response to applicant's correspondence filed 31 October 2008 in the United States Patent and Trademark Office (USPTO). The filed declaration is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 06 July 2005, applicant filed international application PCT/SG05/00222. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 January 2007. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 06 January 2008.

On 04 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement; an Application Data Sheet and a preliminary amendment.

On 03 April 2008, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 31 October 2008, applicant filed the declaration discussed herein accompanied by a petition for a five-month extension of time. The response is considered timely filed.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on31 October 2008 was executed by Lim Teow Heng as executor of the estate of deceased inventor, Stephen Tiong Lee Tay. The declaration provides the citizenship, residence and mailing address for both the deceased inventor and the signing legal representative per 37 CFR 1.497(a)(3). The declaration is accompanied by an Application Data Sheet and has been signed by the two other joint inventors. As such, it is proper to grant applicant's request for status pursuant to 37 CFR 1.42.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application has an international application filing date of 06 July 2005 and will be given a date of **31 October 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

0 2 DEC 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOORE & HANSEN, PLLP
225 SOUTH SIXTH ST
MINNEAPOLIS MN 55402

In re Application of	:	
SCRIBNER, et al.	:	
Application No.: 11/994,837	:	
PCT No.: PCT/US06/26616	:	DECISION ON PETITION
Int. Filing Date: 07 July 2006	:	
Priority Date: 07 July 2005	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: C76-010-03-US	:	
For: DEVICE FOR DELIVERY OF BONE VOID	:	
FILLING MATERIALS	:	

The petition to revive under 37 CFR 1.137(b) filed 10 November 2008 in the above-captioned application is hereby **DISMISSED AS MOOT** as follows:

On 06 May 2008, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) informing applicant that An executed oath or declaration of the inventors was required. Applicant was afforded two months to file a proper response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 10 November 2008, applicant filed the present petition to revive. Applicant is advised that the above-captioned application was not abandoned as of 10 November 2008 as the five-month extendable period of reply did not expire until 06 December 2008. A review of applicant's submission shows that a proper reply has been submitted. Applicant has provided a payment of $810.00. This payment will be applied to the five-month extension of time fee payment and the remaining $365.00 will be charged to deposit account number 13-4300.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for continued processing, including, if proper, the mailing of a "Notification of Acceptance (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

0 2 FEB 2009

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PETER FORREST
MOORE & HANSEN PLLP
225 South Sixth Street,
Suite 4850
Minneapolis, MN 55402

In re Application of SCRIBNER et al Application No.: 11/994,838 PCT No.: PCT/US2006/026727 Int. Filing Date: 07 July 2006 Priority Date: 07 July 2005 For: DEVICES AND METHODS FOR THE TREATMENT OF BONE FRACTURE	:	PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 10 November 2008.

BACKGROUND

Applicants filed international application, PCT/US06/026727, on 07 July 2006. Applicant submitted paper to enter the national stage in the United States on 06 January 2008. The present application became abandoned on 15 December 2008 based on applicants' failure to respond to the Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office (DO/EO/US/905) for an oath or declaration and the payment of extension of time fee.

On 11 November 2008, applicants filed the present petition under 37 CFR 137(b) to revive the application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2)

the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicants have provided the required reply.

Regarding item (2), the $810 petition fee has been charged to Deposit Account No. 134300 as authorized by applicants.

Regarding item (3), the petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

It is noted that applicants have not filed a surcharge fee of $65 for submission of oath after the expiration of 32 months from the priority date. The surcharge fee of $65 has been charged to Deposit Account No. 134300.

CONCLUSION

For the reasons detailed above, applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing (DO/EO/US) for further processing in accordance with this decision.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557
Fax: (571) 273-0459

Leonard Smith
Supervisory 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

PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

MAILED

APR 21 2009

OFFICE OF PETITIONS

Applicant: Alstermark, et al.
Appl. No.: 11/994,844
International Filing Date: July 5, 2006
Title: Heterocyclic Sulfonamide Derivatives as Inhibitors of Factor XA
Attorney Docket No.: 133087.26601(101799-1PUS)
Pub. No.: US 2008/0200431 A1
Pub. Date: August 21, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 21, 2008, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors in the abstract and claims 17 and 18 wherein the chemical formulas and nomenclature are misprinted.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the publication, wherein "$NHCOR^{13}$, $O(CH_2)_rR^{14}$" is misprinted as "$NHCOR^3$, $O(CH^2)_rR^{14}$" in claims 17 and 18 and the errors it the abstract may be Office errors, but they are not material Office errors under 37 CFR 1.221. The errors in the abstract and claims are not material Office errors under 37 CFR 1.221 because the quality of the text is poor and the symbols are small and faint. The text is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is small, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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PEPPER HAMILTON LLP
400 BERWYN PARK
899 CASSATT ROAD
BERWYN PA 19312-1183

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APR 21 2009

OFFICE OF PETITIONS

Applicant: Alstermark, et al
Appl. No.: 11/994,846
Filing Date: July 5, 2006
Title: Heterocyclic Sulfonamide Derivatives As Inhibitors Of Factor Xa
Attorney Docket No.: 133087.26701(101804-1PUS)
Pub. No.: 2008/0214495 A1
Pub. Date: September 4, 2008

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on October 22, 2008, for the above-identified application.

The request is DISMISSED.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the publication, wherein some of the subscripts and superscripts are misprinted may be Office errors, but they are not material Office errors under 37 CFR 1.221. The errors in the text are not material Office errors under 37 CFR 1.221 because of the quality of the text, as the symbols are small and faint. The text is not clear due to the size, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the subscripts and superscripts is small and faint, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by

[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).

digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication".

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTHIAS SCHOLL
14781 MEMORIAL DRIVE
SUITE 1319
HOUSTON TX 77079

MAILED

JUN 03 2010

OFFICE OF PETITIONS

In re Application of Keith Leaman Application No. 11/994,850 Filed: February 7, 2008 Attorney Docket No. QEDI-00501-NUS	: : : : :	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: **KENWOOD LIMITED**
NEW LANE
HAVANT HAMPSHIRE P09 2NH
UNITED KINGDOM

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTHIAS SCHOLL
14781 MEMORIAL DRIVE
SUITE 1319
HOUSTON, TX 77079

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Keith Leaman	:	
Application No. 11/994,850	:	DECISION ON PETITION
Filed: February 7, 2008	:	TO WITHDRAW
Attorney Docket No. QEDI-00501-NUS	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 10, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Matthias Scholl has been revoked by the assignee of the patent application on May 13, 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: **FLEIT GIBBONS GUTMAN BONGINI**
& BIANCO PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

0 3 DEC 2008

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P.O. Box 1450
Alexandria, VA 22313-1450
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Dr. Mark M. Friedman
c/o Bill Polkinghorn - Discovery Dispatch
9003 Florin Way
Upper Marlboro MD 20772

In re Application of
GARTEN et al.
Application No.: 11/994,852
PCT No.: PCT/IL06/00792
Int. Filing Date: 09 July 2006
Priority Date: 07 July 2005
Attorney Docket No.:26/907
For: DETECTION OF PARTIALLY OCCLUDED TARGETS IN LADAR IMAGES

DECISION ON REQUEST

This decision is issued in response to applicants' "Petition to Add Inventors under 37 CFR 1.48(a)" filed 07 October 2008, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application.

BACKGROUND

On 09 July 2006, applicants filed international application PCT/IL06/00792 which claimed a priority date of 07 July 2005. The published international application identified one applicant/inventor for the United States: Haim Garten. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 07 January 2008.

On 07 January 2008, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and an application data sheet.

On 22 May 2008, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 22 July 2008, applicants filed a declaration executed by: Haim Garten; Meir Barzohar; and Youram Swirski.

On 08 September 2008, the United States Designated/Elected Office (DO/EO/US)

mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the second and third inventors (Meir Barzohar and Youram Swirski) were not identified on the international application.

On 07 October 2008, applicants filed the present request under 37 CFR 1.497(d) to add Meir Barzohar and Youram Swirski as an inventors.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors Meir Barzohar and Youram Swirski to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Meir Barzohar and Youram Swirski to the application, applicants' 07 October 2008 submission satisfies requirements (1); (2); and (4).

Regarding item (3), applicants have submitted a document entitled "Written Consent." This document states that the assignee consents to the addition of Meir Barzohar and Youram Swirski as inventors herein. However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37CFR 3.73(b)(2). Specifically, the person (Perets Rotkopf) signing the "Written Consent" does not have apparent authority to act on behalf of the assignee or states that he is authorized to act on behalf of the assignee.

Additionally, the assignee must establish its ownership to the application in accordance with 37 CFR 3.73. See Manuel of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b) (Form PTO/SB/96). Applicants must provide such consent before item (3) can be considered satisfied.

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' request to add inventors Meir Barzohar and Youram Swirski under 37 CFR 1.497(d) is DISMISSED without prejudice. The inventors of record remain the inventor named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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

3 0 JAN 2009

Dr. Mark M. Friedman
c/o Bill Polkinghorn - Discovery Dispatch
9003 Florin Way
Upper Marlboro MD 20772

In re Application of
GARTEN et al.
Application No.: 11/994,852
PCT No.: PCT/IL06/00792
Int. Filing Date: 09 July 2006
Priority Date: 07 July 2005
Attorney Docket No.: 26/907
For: DETECTION OF PARTIALLY OCCLUDED TARGETS IN LADAR IMAGES

DECISION ON REQUEST

This decision is issued in response to applicants' "Petition to Add Inventors under 37 CFR 1.497(d)" filed 10 December 2008 to correct the inventorship of the present national stage application.

BACKGROUND

On 09 July 2006, applicants filed international application PCT/IL06/00792 which claimed a priority date of 07 July 2005. The published international application identified one applicant/inventor for the United States: Haim Garten. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 07 January 2008.

On 07 January 2008, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and an application data sheet.

On 22 May 2008, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 22 July 2008, applicants filed a declaration executed by: Haim Garten; Meir Barzohar; and Youram Swirski.

On 08 September 2008, the United States Designated/Elected Office (DO/EO/US)

mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the second and third inventors (Meir Barzohar and Youram Swirski) were not identified on the international application.

On 07 October 2008, applicants filed a request under 37 CFR 1.497(d) to add Meir Barzohar and Youram Swirski as inventors. The request under 37 CFR 1.497(d) was dismissed in a decision dated 03 December 2008.

On 10 December 2008, applicants filed the present renewed petition.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors Meir Barzohar and Youram Swirski to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Meir Barzohar and Youram Swirski to the application, applicants' 07 October 2008 submission satisfies requirements (1); (2); and (4).

Item (3) has not been satisfied. As previously stated, the written consent of the assignee, executed by Perets Rotkopf, is not acceptable. This document states that the assignee consents to the addition of Meir Barzohar and Youram Swirski as inventors herein. However, pursuant to 37 CFR 1.497(d)(3), the statement executed by the assignee does not comply with the requirements of 37 CFR 3.73(b)(2). Specifically, the person (Perets Rotkopf) signing the "Written Consent" does not have apparent authority to act on

behalf of the assignee or states that he is authorized to act on behalf of the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee. (See Section 201.03 of the M.P.E.P.)

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' request to add inventors Meir Barzohar and Youram Swirski under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventor named on the international application.

Applicants must file a proper response to this decision within TWO (2) MONTHS from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony R

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

3 0 JAN 2009

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In re Application of
GARTEN et al.
Application No.: 11/994,852
PCT No.: PCT/IL06/00792
Int. Filing Date: 09 July 2006
Priority Date: 07 July 2005
Attorney Docket No.: 26/907
For: DETECTION OF PARTIALLY OCCLUDED TARGETS IN LADAR IMAGES

DECISION ON REQUEST

This decision is issued in response to applicants' "Petition to Add Inventors under 37 CFR 1.497(d)" filed 10 December 2008 to correct the inventorship of the present national stage application.

BACKGROUND

On 09 July 2006, applicants filed international application PCT/IL06/00792 which claimed a priority date of 07 July 2005. The published international application identified one applicant/inventor for the United States: Haim Garten. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 07 January 2008.

On 07 January 2008, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and an application data sheet.

On 22 May 2008, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 22 July 2008, applicants filed a declaration executed by: Haim Garten; Meir Barzohar; and Youram Swirski.

On 08 September 2008, the United States Designated/Elected Office (DO/EO/US)

mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the second and third inventors (Meir Barzohar and Youram Swirski) were not identified on the international application.

On 07 October 2008, applicants filed a request under 37 CFR 1.497(d) to add Meir Barzohar and Youram Swirski as inventors. The request under 37 CFR 1.497(d) was dismissed in a decision dated 03 December 2008.

On 10 December 2008, applicants filed the present renewed petition.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors Meir Barzohar and Youram Swirski to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
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> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Meir Barzohar and Youram Swirski to the application, applicants' 07 October 2008 submission satisfies requirements (1); (2); and (4).

Item (3) has not been satisfied. As previously stated, the written consent of the assignee, executed by Perets Rotkopf, is not acceptable. This document states that the assignee consents to the addition of Meir Barzohar and Youram Swirski as inventors herein. However, pursuant to 37 CFR 1.497(d)(3), the statement executed by the assignee does not comply with the requirements of 37 CFR 3.73(b)(2). Specifically, the person (Perets Rotkopf) signing the "Written Consent" does not have apparent authority to act on

behalf of the assignee or states that he is authorized to act on behalf of the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee. (See Section 201.03 of the M.P.E.P.)

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' request to add inventors Meir Barzohar and Youram Swirski under 37 CFR 1.497(d) is DISMISSED without prejudice. The inventors of record remain the inventor named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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Office of PCT Legal Administration
Tel: (571) 272-3298
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P.O. Box 1450
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11 MAR 2009

Dr. Mark M. Friedman
c/o Bill Polkinghorn - Discovery Dispatch
9003 Florin Way
Upper Marlboro MD 20772

In re Application of GARTEN et al. Application No.: 11/994,852 PCT No.: PCT/IL06/00792 Int. Filing Date: 09 July 2006 Priority Date: 07 July 2005 Attorney Docket No.: 26/907 For: DETECTION OF PARTIALLY OCCLUDED TARGETS IN LADAR IMAGES	:	DECISION ON REQUEST

In a decision mailed by this Office on 30 January 2009, applicants' request to correct inventorship was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d). Specifically, applicants had not provided the required consent of the assignee to the requested change in inventorship.

On 10 March 2009, applicants filed the renewed request under 37 CFR 1.497(d) considered herein. The submission included the consent of the assignee to the requested correct of inventorship, in the form required under 37 CFR 1.497(d)(3) and 3.73(b).

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**. The inventorship herein is corrected to add Meir Barzohar and Youram Swirski as additional inventors of record.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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

SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Yoshihide Koyama	: DECISION ON REQUEST FOR
Patent Number	: 7626674	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/994,873	: 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 **159** 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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3 0 JAN 2009

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On 10 December 2008, applicants filed the present renewed petition.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors Meir Barzohar and Youram Swirski to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Meir Barzohar and Youram Swirski to the application, applicants' 07 October 2008 submission satisfies requirements (1); (2); and (4).

Item (3) has not been satisfied. As previously stated, the written consent of the assignee, executed by Perets Rotkopf, is not acceptable. This document states that the assignee consents to the addition of Meir Barzohar and Youram Swirski as inventors herein. However, pursuant to 37 CFR 1.497(d)(3), the statement executed by the assignee does not comply with the requirements of 37 CFR 3.73(b)(2). Specifically, the person (Perets Rotkopf) signing the "Written Consent" does not have apparent authority to act on

behalf of the assignee or states that he is authorized to act on behalf of the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee. (See Section 201.03 of the M.P.E.P.)

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' request to add inventors Meir Barzohar and Youram Swirski under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventor named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 APR 2010

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United States Patent and Trademark Office
P.O. Box 1450
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38834
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 Connecticut Ave., N.W.
Suite 700
Washington, DC 20036

In re Application of :
TAKAYAMA *et al* :
U.S. Application No.: 11/994,915 :
PCT No.: PCT/JP2006/313518 :
Int. Filing Date: 30 June 2006 :
Priority Date: 07 July 2007 :
Attorney Docket No.: 072711 : **DECISION**
For: INDUCED VOLTAGE CONTROL :
DEVICE, ITS CONTROL METHOD, :
CHARGED PARTICLE BEAM ORBIT :
CONTROL DEVICE, AND ITS :
CONTROL METHOD :

This decision is in response to the papers filed on 16 February 2010 which are treated as a petition under 37 CFR 1.42.

BACKGROUND

On 15 December 2009, the DO/EO/US mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b). Applicants were given two months to respond with extensions available.

On 16 February 2010, applicants submitted a response containing a declaration executed by four named co-inventors and the sole heir of a deceased co-inventor.

On 05 April 2010, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt stating that applicants completed all 35 U.S.C. 371 requirements on 16 February 2010.

DISCUSSION

35 U.S.C. 117 *Death or Incapacity of Inventor*, states:

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

Applicants submitted a declaration executed by four of the five named inventors.

Applicants also included a declaration containing a supplemental signature page executed by Reiko KISHIRO as sole heir of deceased co-inventor, Junichi KISHIRO. The supplemental page provides the citizenship, residence and address of the heir required by 37 CFR 1.497(b)(2). However, the declaration executed by the heir does contain a page listing all five inventors and is not accepted. A complete listing of the proper inventive entity on the declaration executed by the heir is required. *See* 37 CFR 1.497(a)(3).

CONCLUSION

For the reasons noted above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

The Form PCT/DO/EO/903 and filing receipt mailed 05 April 2010 are hereby **VACATED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Any 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.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

0 9 JUN 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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38834
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 Connecticut Ave., N.W.
Suite 700
Washington, DC 20036

In re Application of :
TAKAYAMA *et al* :
U.S. Application No.: 11/994,915 :
PCT No.: PCT/JP2006/313518 :
Int. Filing Date: 30 June 2006 :
Priority Date: 07 July 2007 :
Attorney Docket No.: 072711 : **DECISION**
For: INDUCED VOLTAGE CONTROL :
DEVICE, ITS CONTROL METHOD, :
CHARGED PARTICLE BEAM ORBIT :
CONTROL DEVICE, AND ITS :
CONTROL METHOD :

This is a decision on the renewed petition under 37 CFR 1.42 filed 29 April 2010.

BACKGROUND

On 09 April 2010, a decision dismissing the declaration filed under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available.

On 29 April 2010, applicants filed the subject response which was accompanied by, *inter alia*, another copy of the declaration previously submitted with an additional page listing the five-named inventors for the declaration executed by the heir of a deceased co-inventor.

DISCUSSION

The prior declaration (executed by the heir) was not accepted as it did not contain a page listing all five inventors. A complete listing of the proper inventive entity on the declaration executed by the heir is required. *See* 37 CFR 1.497(a)(3).

In the renewed response, applicants submitted the same declaration executed by Reiko KISHIRO as heir of deceased co-inventor, Junichi KISHIRO. This declaration contains an added page containing a complete listing of the proper inventive entity.

In a telephone call with the undersigned on 08 June 2010, applicants state that

the three-page declaration containing the complete inventive entity was presented to the heir, but that the complete declaration was not provided to the Office.

This is an acceptable response. The declaration signed by the heir is accepted.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 30 June 2006 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 April 2010.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT and TRADEMARK OFFICE

21 NOV 2008

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Goodwin Procter LLP
Exchange Place
53 State Street
Boston, Massachusetts

In re Application of	DECISION ON
MARVEL et al	
PCT No.: PCT/US06/026672	
Application No.: 11/994,941	PETITION UNDER
Int. Filing Date: 07 July 2006	
Priority Date: 07 July 2005	
Attorney's Docket No.: 564-10001-US	37 CFR 1.47(a)
For: CONTACTLESS DATA COMMUNICATIONS COUPLING	

This decision is in response to petitioner's "Petition Under 37 CFR 1.47(a): Filing when an Inventor Refuses to Sign" submitted on 15 September 2008, requesting the acceptance of the application without the signature of the inventor Jurgen KRUPPA. Petitioner has submitted the requisite $200 petition fee by check.

BACKGROUND

On 07 July 2006, applicants filed international application PCT/US06/026672, which claimed priority of an earlier application filed 07 July 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 January 2008.

On 07 January 2008, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 15 May 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b) identifying the application y the international application number and international filing date." The notification further stated that all items must be submitted within two months from the date of mailing or by 32 months from the priority date for the application in order to avoid abandonment of the national stage application.

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), petitioner, inter alia, filed on 15 September 2008, a petition under 37 CFR 1.47, and a Declaration and Power for Patent Application executed by Dennis MARVEL on his behalf and on behalf on the nonsigning inventor, Jurgen KRUPPA.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR **1.17(g)**, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written

refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1), (3), and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(g).

Regarding requirement (2), although, petitioner states that the application papers were mailed to Mr. Kruppa on September 5, 2008 and September 9, 2008, and that Mr. Kruppa was requested to return the signed papers by September 12, 2008, this is a short time period (about a week) to make a determination that Mr. Kruppa refuses to sign the papers because it could be that he was on vacation or out of town during the delivery or needed some reasonable time to review the papers before signing. Accordingly, Mr Kruppa was not given enough time to decide to sign the required papers.

Consequently, the current record does not support the premise that Mr. Kruppa conduct constitutes refusal since he was not given enough time to review the documentation and to reply. Petitioner should have given Mr. Kruppa more time to response before filing the petition.

Regarding requirement (3), petitioner has provided a statement of the last known address of the missing inventor:

Mr. Jurgen Kruppa
2001 S.W. 35th Avenue
Delray Beach, Florida 33445

Regarding item (4), petitioner has provided an executed declaration signed by Dennis MARVEL on his behalf and on behalf on the nonsigning inventor, Jurgen KRUPPA.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

2 2 APR 2009

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Goodwin Procter LLP
Exchange Place
53 State Street
Boston, Massachusetts

In re Application of MARVEL et al PCT No.: PCT/US06/026672 Application No.: 11/994,941 Int. Filing Date: 07 July 2006 Priority Date: 07 July 2005 Attorney's Docket No.: 564-10001-US For: CONTACTLESS DATA COMMUNICATIONS COUPLING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" submitted on 23 December 2008.

BACKGROUND

The decision by this Office dated 21 November 2008 indicated that requirement (2) had not been satisfied.

On 23 December 2008, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by inventor Jurgen Kruppa.

DISCUSSION

The renewed petition states subsequent to the date of the Decision, Mr. Kruppa, executed a declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 23 December 2006 c8mplies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **23 December 2008.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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INTELLECTUAL PROPERTY DEPT.
DEWITT ROSS & STEVENS SC
2 EAST MIFFLIN STREET,
SUITE 600
MADISON, WI 53703-2865

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Prasanna Gorur Narayana SRINIVASA, et al	:	
Application No. 11/994,958	:	DECISION ON PETITION
Filed: January 7, 2008	:	TO WITHDRAW
Attorney Docket No. 88870.015	:	FROM RECORD
	:	

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 4, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Dewitt Ross & Stevens, SC, has been revoked by the applicant of the patent application on May 5, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PRASSANA GORUR NARAYANA SRINIVASA
NO. 7, SRI RAMA KRUPA, 2ND MAIN,
SRIKANTAN LAYOUT, HIGH GROUNDS, 560001
BANGALORE, KARNATAKA, INDIA

11 JUN 2010

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GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

In re Application of	:	
MIYASAKA, Masahiro, et al.	:	
Application No.: 11/994,990	:	
PCT No.: PCT/JP2006/313245	:	
Int. Filing Date: 03 July 2006	:	DECISION
Priority Date: 05 July 2005	:	
Attorney's Docket No.: SOEI0031	:	
For: PHOTOSENSITIVE RESIN ...	:	
USING THE COMPOSITION	:	

This decision is in response to applicants' "Second Request for Refund," filed in the United States Patent and Trademark Office on 06 April 2010.

A review of the copy of the "first" refund request reveals that it is not for this application. The above application is a national phase entry of PCT/JP2006/313245. The refund request was directed to application PCT/US2008/050425 and will be addressed in that application.

For the above reasons, applicants' petition for refund of their filing fees in the above application is **DISMISSED** without prejudice.

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.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite1200
Washington, DC 20006

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JUN 28 2010

OFFICE OF PETITIONS

In re Application of
LUTZ RAPP
Application No. 11/994,992
Filed: February 25, 2008
Attorney Docket No. **2005P09049**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 87133 has been revoked by the applicants of the patent application on June 8, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

1 1 AUG 2008

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND OH 44143

In re Application of	:	
Nielsen et al.	:	
Application No.: 11/995,006	:	
PCT No.: PCT/IB2006/051892	:	
Int. Filing Date: 13 June 2006	:	DECISION
Priority Date: 30 June 2005	:	
Attorney Docket No.: 001370US2	:	
For: Sizing And Positioning Technology For An In-The-Ear Multi-Measurement Sensor To Enable NIBP...	:	:

The petition to revive under 37 CFR 1.137(b) filed on 08 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has filed the required reply in the form of the basic national fee. The $1540.00 petition fee is being charged to Deposit Account 14-1270, as authorized in the EFS-Web filing on 08 January 2008. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Inspection of the declaration document filed on 08 January 2008 reveals that it appears to have been compiled using separate signature sheet(s), each signed by one inventor; petitioner does not appear to have submitted complete copies of the documents as actually signed by each inventor. MPEP 201.03 explains that

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

The declaration also appears to have been directed toward an application other than this national stage of international application PCT/IB2006/051892.

This application is being forwarded to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

17 JUN 2008

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CLEVELAND, OH 44143

In re Application of MARONEY et al	:	
U.S. Application No.: 11/995,008	:	
PCT Application No.: PCT/IB2006/051994	:	
Int. Filing Date: 20 June 2006	:	DECISION
Priority Date Claimed: 30 June 2005	:	
Attorney Docket No.: 002790US2	:	
For: DEVICE PROVIDING SPOT-CHECK OF	:	
VITAL SIGNS USING AN IN-THE-EAR PROBE	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 08 January 2008.

BACKGROUND

On 20 June 2006, applicant filed international application PCT/IB2006/051994, which claimed priority of an earlier United States application filed 30 June 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 11 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 30 December 2007.

On 31 December 2007, international application PCT/IB2006/051994 became abandoned as to the United States for failure to timely pay the basic national fee.

On 08 January 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), the required petition fee will be charged to Deposit Account No. 14-1270 as authorized by applicant.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration filed on 08 January 2008 is unacceptable because: (1) it fails to list inventor Christopher Poux, who is listed in the international application and (2) because it is an improper composite document.[1]

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

[1] The declaration consists of one of Page 1 and two of Page 2. It is not acceptable to combine pages from different copies of a declaration into a single document for submission. Applicant must supply either: (1) a complete declaration which is presented to an executed by all of the inventors or (2) multiple complete declarations, wherein each inventor executes at least one of the multiple complete declarations.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 5/20/09

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/995078 Patent No.: 7491080 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/renee s luebke/ SPE - AU 2833

SPE **Art Unit**

2 0 JUL 2009

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of	:	
Perera et al.	:	
Application No.: 11/995,086	:	
PCT No.: PCT/GB2006/002509	:	
Int. Filing Date: 07 July 2006	:	DECISION
Priority Date: 08 July 2005	:	
Attorney Docket No.: KIL014-001-US	:	
For: Hollow Fibre	:	

This is in response to the submission under 37 CFR 1.497(d) filed on 09 December 2008.

BACKGROUND

This international application was filed on 07 July 2006, claimed an earlier priority date of 08 July 2005, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 January 2008. Applicant filed *inter alia* the basic national fee on 08 January 2008.

On 13 June 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 08 August 2008, applicants filed a response.

On 14 October 2008, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating the declaration to be defective because it nominated Chin-Chih Tai, who was not named in the published international application.

DISCUSSION

Counsel requests that Chin-Chih Tai be added as an inventor, under 37 CFR 1.497(d). A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided an appropriate statement by Chin-Chih Tai.

Regarding requirement (2), the required processing fee has been paid.

Regarding requirement (3), applicants have presented the "Consent of the University of Bath," which asserts that the University of Bath consents to the change of inventorship. The document is signed by Malcolm Cross in the capacity of "Director, Bath Ventures." Mr. Cross does not assert in this document that he has authority to act on behalf of the University, and it is not clear whether Directorship of Bath Ventures implies authority to act on behalf of the University. However, counsel also provides a statement under 37 CFR 3.73(b), which is also signed by Mr. Cross. Here, Mr. Cross does assert that he is "authorized to act on behalf of the assignee." The 37 CFR 3.73(b) statement further asserts that the University of Bath is the assignee of the entire right, title and interest in the application, and refers to the reel and frame numbers where the pertinent assignment has been recorded in the records of the USPTO. Therefore, it would be appropriate to consider requirement (3) to have been satisfied.

DECISION

The declaration filed on 08 August 2008 is **ACCEPTED** under 37 CFR 1.497(d).

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **08 August 2008**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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United States Patent and Trademark Office
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SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Kazunori Tanimoto	: DECISION ON REQUEST FOR
Patent Number	: 7612834	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/995,146	: 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 **168** 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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2 4 JAN 2008

WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

In re Application of:
STUART, Ernest
U.S. Application No.: 11/995,154
PCT No.: PCT/US2005/024166
International Filing Date: 11 July 2005
Priority Date: 09 July 2004
Atty Docket No.: None
For: EFFECT OF RADIATION ON CELLULASE ENZYMES

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 09 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

International application PCT/US2005/024166 became abandoned with respect to the U.S. at midnight on 09 January 2007 based on applicant's failure to enter the U.S. national stage and pay the basic national fee prior to the expiration of thirty months from the priority date.

The present petition for revival includes payment of the required petition fee and the "required reply" in the form of a request for entry into the U.S. national stage and payment of the basic national fee. In addition, the present petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application is granted with respect to the U.S.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905). It is noted that applicants have not yet submitted an executed declaration in compliance with 37 CFR 1.497.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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SENNIGER POWERS LLP
100 NORTH BROADWAY
17TH FLOOR
ST LOUIS MO 63102

MAILED

OCT 15 2009

OFFICE OF PETITIONS

Applicants: Jeremy Arthur Pearce, et al.
Appl. No.: 11/995,173
International Filing Date: July 11, 2006
Title: FRICTION MATERIAL AND PROCESS FOR THE PRODUCTION THEREOF
Attorney Docket: BOUL 3522
Pub. No.: US 2009/0064896 A1
Pub. Date: March 12, 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 12, 2009, for the above-identified application.

The request is granted.

Applicant requests that the application be republished because the patent application publication contains a material error, as it incorrect lists the international filing date as July 7, 2006.

On May 15, 2008, a Formalities Letter and on December 5, 2008, a Filing Receipt were mailed by the Office, which improperly listed the International Filing Date as July 7, 2006. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a corrected filing receipt prior to export of the publication to the publisher.

The application has been forwarded to The Office of PCT Legal Administration and the IA Filing date has been corrected.

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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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OCT 13 2009

OFFICE OF PETITIONS

In re Application of :
Hideki AKIYA, et *al.* :
Application No. 11/995,174 : DECISION GRANTING PETITION
Filed: April 9, 2009 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P33734.P01** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 1, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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.*

7 MAY 2009

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria VA 22314

In re Application of GANSER Application No.: 11/995,193 PCT No.: PCT/CH06/00364 International Filing Date: 10 July 2006 Priority Date: 18 July 2005 Attorney Docket No.: P28389 For: ACCUMULATOR INJECTION SYSTEM FOR AN INTERNAL COMBUSTION ENGINE	:	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicant's "Request for Corrected Filing Receipt" treated as a Petition under 37 CFR 1.182 to correct International application number, filed in the United States Patent and Trademark Office on 04 September 2008.

On 09 January 2008, applicant filed a request for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee. The papers were assigned serial number 11/995,193. However the international application **PCT/CH06/00364** as indicated on the transmittal letter differs from the PCT application number **PCT/CH06/00346** on the Electronic Acknowledgement Receipt, which was filed with the initial request for national stage entry.

Applicant's petition under 37 CFR 1.182 to correct the international application no. to PCT/CH06/00364 on the national stage papers filed on 09 January 2008 is GRANTED. The $400 petition fee will be charged to applicant's deposit account per his authorization.

The Notification of Acceptance and the filing receipt mailed on 26 August 2008 are hereby **VACATED.**

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing. The USPTO records will identify the present application 11/995,193 as a national stage of **PCT/CH06/00364**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571)272-3286
Facsimile: (571)273-0459

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JAN 26 2009

OFFICE OF PETITIONS

DEBORAH A. GADOR
P.O. BOX 4133
GANEL TIKVA 55900 IL ISRAEL

In re Application of	:	
BARAK and TOUBOUL	:	ON PETITION
Application No. 11/995,210	:	
Deposited: 01/10/2008	:	
Attorney Docket No. 209/19	:	

This is response to the "PETITION TO CHANGE THE ORDER OF INVENTORS," filed November 6, 2008, which is properly treated as a petition under 37 CFR 1.182.

As the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. See MPEP 605.04(f). The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. Any petition seeking a decision under 37 CFR 1.182 must be accompanied by the $400.00 petition fee set forth in 37 CFR 1.17(f).

Unfortunately, petitioner has not submitted the requisite $400.00 petition fee. Furthermore, the application does not contain a general authorization to charge any necessary fees to a Deposit Account. Consequently, the petition under 37 CFR 1.182 to change the order of inventor names is dismissed. The petition will not be treated on its merits, but rather will remain in the file until the Office receives a "renewed" petition under 37 CFR 1.182 accompanied by the $400.00 petition fee.

This matter is being referred to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

16 MAY 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Oblon, Spivak, Mcclelland Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of
SPALVIERI, Arnaldo
Application No.: 11/995,252
PCT No.: PCT/IT06/00097
Int. Filing Date: 23 February 2006
Priority Date: 23 February 2005
Attorney Docket No.: 320636US2PCT
For: TRANSMISSION AND RECEPTION SYSTEM AND METHOD BASED ON CODE DIVISION

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 10 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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30 SEP 2008

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of: KIM, Sung, Hoon, et al. U.S. Application No.: 11/995,274 PCT No.: PCT/KR2006/002724 International Filing Date: 11 July 2006 Priority Date: 11 July 2005 Atty's Docket No.: CU-6346 For: OPTICAL TCM CODEC SEARCH METHOD FOR DUAL STREAM SYSTEMS, AND ENCODER/ DECODER USING THE SAME	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition In Support Of Joint Inventors Filing On Behalf Of Nonsigning Unavailable Inventor Under 37 CFR 1.47" filed 15 September 2008. Deposit Account No 12-0400 will be charged the required $200 petition fee.

BACKGROUND

On 11 July 2006, applicants filed international application PCT/KR2006/002724. The international application claimed a priority date of 11 July 2005, and it designated the United States. On 18 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 11 January 2008.

On 10 January 2008, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 22 May 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and payment of the surcharge for filing the declaration later than thirty months after the priority date were required.

On 15 September 2008, applicants filed a response to the Notification Of Missing Requirements (with required two-month extension fee). The response included payment of the required surcharge, a partially executed declaration, and the petition under 37 CFR 1.47(a)

considered herein. The petition seeks acceptance of the application without the signature of inventor Seung-Won KIM, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have authorized a charge to Deposit Account No. 12-0400 for required fees, pursuant to which applicants will be charged the required $200 petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by six of the seven inventors of record, and the declaration includes an unsigned signature block for the non-signing inventor, Seung-Won KIM. This declaration may be accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventor. Item (3) of a grantable petition is therefore satisfied.

Regarding item (4), the petition is unclear as to whether applicants are asserting that the non-signing inventor has refused to execute the application, or whether the inventor cannot be located after diligent effort (the petition indicates that the whereabouts of the inventor are not known, but the materials attached to the petition imply some contacts with the inventor via email and telephone). With respect to an assertion that the inventor has refused to execute the application, MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided a statement from Loren Thompson, with accompanying exhibits, discussing efforts made to contact the non-signing inventor. The statement asserts that

a signature request, accompanied by a declaration and assignment, were mailed to the last known address of the non-signing inventor by personnel from a Korean law firm, and that this mailing was returned to the sender. The statement also refers to signature requests transmitted to the non-signing inventor by Hyang-Sil Kim at the inventor's last known email address, with copies of these email messages (and English translations thereof) attached. Initially, it is noted that the person providing the statement, Loren Thompson, is not the person who made any of the efforts to contact the non-signing inventor and is therefore not the proper person to be making the statement of facts. Applicants must provide a firsthand statement of facts from the person(s) who have contacted, or attempted to contact, the non-signing inventor (for example, with respect to the email correspondence, Hyang-Sil Kim) confirming these communications and the details thereof. It is noted that no responsive emails from the inventor have been provided, making it unclear whether the email address being used is current and therefore whether the inventor has received any of the attached emails. It is also noted that the emails imply some communication between the non-signing inventor and Hyang-Sil Kim;[1] any further submission should set forth the details of any such communications. In addition, no evidence has been presented to indicate that a copy of the complete application has been provided to the non-signing inventor, as required before it can be concluded tat the inventor has refused to execute the application (the correspondence here refers only to the declaration and assignment). Absent the supplemental materials discussed above, it cannot be concluded that the non-signing inventor has refused to execute the application.

In the alternative, if applicants are asserting that the inventor cannot be located after diligent effort, MPEP section 409.03(d) states the following:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. [...]
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, applicants have not provided a firsthand statement providing details of a diligent effort made to locate the non-signing inventor. The statement of Loren Thompson and the accompanying exhibits refer only to apparently unsuccessful attempts to contact the inventor at his last known mailing and email addresses. No evidence has been provided demonstrating that an effort has been made to find more current contact information for the inventor. Before it can be concluded that the non-signing inventor cannot be located after diligent effort, applicants must provide firsthand evidence, with supporting materials, describing the efforts made to locate a current address for the inventor and contact him at such address. Such efforts should include, but not be limited to, an internet search for the inventor.

---

[1] See email dated 22 May 2007: "As I told you on the line the other day ..."

Based on the above, applicants have failed to provide an acceptable showing that the non-signing inventor has refused to execute the application or cannot be located after diligent effort. Item (4) of a grantable petition is therefore not satisfied on the present record.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (4) of a grantable petition, as discussed above and in the MPEP. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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27 FEB 2009

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of: KIM, Sung, Hoon, et al. U.S. Application No.: 11/995,274 PCT No.: PCT/KR2006/002724 International Filing Date: 11 July 2006 Priority Date: 11 July 2005 Atty's Docket No.: CU-6346 For: OPTICAL TCM CODEC SEARCH METHOD FOR DUAL STREAM SYSTEMS, AND ENCODER/ DECODER USING THE SAME	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' renewed "Petition In Support Of Joint Inventors Filing On Behalf Of Nonsigning Unavailable Inventor Under 37 CFR 1.47" filed 20 November 2008. No additional petition fee is required.[1]

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 30 September 2008. The decision dismissed without prejudice applicants' petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to provide an adequate showing that the non-signing inventor had refused to execute the application or cannot be located after diligent effort.

On 20 November 2008, applicants filed the renewed petition considered herein.

DISCUSSION

The renewed petition includes a revised statement of facts in support of the petition executed by Hyang-Sil Kim, with additional attached exhibits. This statement provides firsthand support for the mailing and email communications directed by Hyang-Sil Kim to the non-signing inventor at his last-known mailing and email addresses. The statement also indicates that a search of the Korean telephone directory identified 193 persons with the same name as the non-signing inventor, and it states that the "Shinsung International Patent & Law Firm then

[1] Applicants submitted an extension fee of $885 with the present renewed petition. However, the renewed petition was a timely response to the decision mailed 30 September 2008. Accordingly, no additional extension fee is required. The $885 fee will be refunded to Deposit Account No. 03-1952.

telephoned each of all 193 persons to locate the non-signed inventor Mr. Seung-Won Kim. However, none of the 193 persons was the non-signed inventor Mr. Seung-Won Kim." However, the statement does not confirm that Hyang-Sil Kim is the person who made the calls to the 193 persons. A firsthand statement is required from the person(s) who made these calls confirming that such calls were made. In addition, the statement does not clarify Hyang-Sil's statement in his 22 May 2007 email that indicates he had spoken to the non-signing inventor, as noted in the previous decision. Finally, the statement indicates that the inventor might have relocated to the United States, but no evidence is provided that an internet search has been conducted which would extend beyond Korea and which might provide current contact information for the inventor if he has moved to the United States.

Based on the above, the renewed petition does not satisfy the final requirement of a grantable petition. Applicant must supply the additional supplemental materials discussed above before it can be concluded that the non-signing inventor cannot be located after diligent effort.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (4) of a grantable petition, as discussed above and in the MPEP. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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18 MAR 2009

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Application of: KIM, Sung, Hoon, et al. U.S. Application No.: 11/995,274 PCT No.: PCT/KR2006/002724 International Filing Date: 11 July 2006 Priority Date: 11 July 2005 Atty's Docket No.: CU-6346 For: OPTICAL TCM CODEC SEARCH METHOD FOR DUAL STREAM SYSTEMS, AND ENCODER/ DECODER USING THE SAME	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

In decisions mailed by this Office on 30 September 2008 and 27 February 2009, applicants' petition under 37 CFR 1.47(a) for acceptance of the application without the signature of applicant Seung-Won KIM was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 12 March 2009, applicants filed a second renewed petition in response to the 27 February 2009 decision. The second renewed petition was accompanied by an acceptable declaration executed by the previously non-signing inventor Seung-Won KIM. Applicants have therefore now submitted a fully executed declaration in compliance with 37 CFR 1.497. Accordingly, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision.

The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 March 2009.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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2 1 JAN 2010

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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington DC 20005-1503

In re Application of:	:	
KANAI, et al.	:	DECISION
U.S. Application No.: 11/995,287	:	
PCT No.: PCT/JP2006/313477	:	
International Filing Date: 06 July 2006	:	
Priority Date: 11 July 2005	:	
Atty Docket No.: 2007_2306A	:	
For: ENVIRONMENT CONTROL	:	
DEVICE, ENVIRONMENT	:	
CONTROL METHOD,	:	
ENVIRONMENT...PROGRAM	:	

This decision is issued in response to the "PETITION UNDER 37 C.F.R. § 1.181 FOR 371(C) DATE" filed 20 October 2009 in the United States Patent and Trademark Office (USPTO) seeking a 35 U.S.C. 371 date of 10 January 2008. No petition fee is required.

BACKGROUND

On 06 July 2006, applicants filed international application PCT/JP2006/313477. The international application claimed a priority date of 11 July 2005 and it designated the United States. On 18 January 2007, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was 11 January 2008, i.e., thirty months from the priority date.

On 10 January 2008, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an English translation of the international application; an executed declaration of the inventors and a preliminary amendment.

On 29 September 2008, applicant filed a "Submission of Substitute Declaration" accompanied by an additional signed declaration. Applicant explained that the citizenship of the first named inventor was "misstated" on the declaration filed 10 January 2008.

On 29 July 2009, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Completion Of All U.S.C.

371 Requirements" as "09/29/2008." Also on 29 July 2009, a filing receipt was issued that identified the "Filing Date or 371(c) Date" as 09/29/2008.

On 20 October 2009, applicants filed the petition under 37 CFR 1.181 discussed herein. The petition requests correction of the "Filing Date or 371(c) Date" listed on the filing receipt from 29 September 2008 to 10 January 2008.

DISCUSSION

The present petition requests that the "Filing Date or 371(c) Date" listed on the filing receipt be corrected from 29 September 2008 to 10 January 2008.

The "Filing Date or 371(c) Date" listed on the filing receipt for a national stage application filed under 35 U.S.C. 371 is the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). See MPEP 1893.03(b).

37 CFR 1.497(a)(3) requires that oath or declaration provided by applicant identifies each inventor and the country of citizenship of each inventor. While the declaration filed 10 January 2008 did list a country of citizenship for inventor Kanai it was not the correct country of citizenship. Therefore, the declaration filed 10 January 2008 was not incompliance with 37 CFR 1.497(a)(3). This requirement was not properly satisfied until the filing of the corrected declaration of 29 September 2008. Thus, the Form PCT/DO/EO/903 and Official filing receipt mailed 29 July 2009 listed the correct 35 U.S.C. 371 date.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date from 29 September 2008 to 10 January 2008 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Such a petition should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3294

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Alexandria, VA 22313-1450
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18 NOV 2008

51707
WRB-IP LLP
1217 King Street
Alexandria, VA 22314

In re Application of :
LARSSON *et al* :
U.S. Application No.: 11/995,335 :
PCT No.: PCT/SE2006/000869 :
Int. Filing Date: 11 July 2006 : **DECISION**
Priority Date: 11 July 2005 :
Attorney Docket No.: 000009-173 :
For: METHOD FOR PERFORMING DRIVER :
IDENTITY VERIFICATION :

This decision is in response to the papers filed 03 September 2008.

BACKGROUND

On 11 January 2008, applicants filed papers to enter the national stage of PCT/SE2006/000869.

On 29 May 2008, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed requiring, *inter alia*, a declaration in compliance with 37 CFR 1.497(a) and (b).

On 30 May 2008, an executed declaration was filed. The second named inventor was listed on the declaration as Andreas HAGERMANN. The international publication ("WO 2007/008159") also records the inventor as Andreas HAGERMANN.

On 11 July 2008, a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt were mailed noting that the completion date of all 35 U.S.C. 371 requirements was 30 May 2008.

On 03 September 2008, applicants filed the subject petition which was accompanied by, *inter alia*, a declaration signed by Andreas HAGEMANN and a "Declaration of Andreas Hagemann."

DISCUSSION

Applicants state that the name of the second inventor was erroneously submitted in the international application as HAGERMANN instead of HAGEMANN due to a typographical error and this error was carried over to the national stage application.

Section 201.03 of the MPEP states that where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. Therefore, a petition under 37 CFR 1.182 is not required.

Applicants' explanation is sufficient. The error appears to be simply of a typographical nature. The second named inventor is Andreas HAGEMANN.

A new declaration is not required.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

The $400.00 petition fee filed with the subject petition will be refunded.

It is noted that the copy of the declaration submitted 03 September 2008 was partially cut off and contains noninitialed changes on the residence and mailing address of Andreas HAGEMANN. As such, the declaration would not be acceptable if required.

This application is being forwarded to Group Art Unit 2612 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Jerome D. Jackson (Jackson Patent Law Office)
211 N. Union Street, Suite 100
Alexandria, VA 22314

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Rathod Yogesh Chunilal	:	
Application No. 11/995,343	:	DECISION ON PETITION
Filed: January 11, 2008	:	TO WITHDRAW
Attorney Docket No. 166.004	:	FROM RECORD
	:	

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 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jerome D. Jackson on behalf of attorney/agents associated with customer number 38245. All attorneys/agents associated with customer number 38245.

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.

Application No. 11/995,343

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Yogesh Chunilal Rathod
1502/A Mahavir Residency
L B S Marg Near Blarajeshvyar Mandir
Mulund (W)
Mumbai, Maharashtra, India 400080

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/995,343	01/11/2008	Rathod Yogesh Chunilal	166.004

CONFIRMATION NO. 7165

POWER OF ATTORNEY NOTICE

38245
JEROME D. JACKSON (JACKSON PATENT LAW OFFICE)
211 N. UNION STREET, SUITE 100
ALEXANDRIA, VA 22314

OC000000035407734

Date Mailed: 04/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/07/2009.

- 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.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT and TRADEMARK OFFICE

17 JUN 2008

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	DECISION ON
Schlievert et al	:	
Application No.: 11/995,411	:	
PCT No.: PCT/US2005/046948	:	
Int. Filing Date: 23 December 2005	:	PETITION UNDER
Priority Date: 23 December 2004	:	
Attorney's Docket No.: 09531-185US1	:	
For: Exotoxin Inhibitory Factor	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 11 January 2008.

BACKGROUND

On 23 December 2005, this international application was filed, claiming an earliest priority date of 23 December 2004.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 23 June 2007. This international application became abandoned with respect to the United States at midnight on 23 June 2007 for failure to pay the required basic national fee.

On 11 January 2008, applicant filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee. However, no executed declaration was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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14 AUG 2008

66547
THE FARRELL LAW FIRM, P.C.
333 Earle Ovington Blvd., Suite 701
Uniondale, NY 11553

In re Application of OH *et al* U.S. Application No.: 11/995,415 PCT No.: PCT/KR2006/002310 Int. Filing Date: 16 June 2006 Priority Date: 11 July 2005 Docket No.: 1338-8 PCT US (EPCT06-006) For: SAFETY DEVICE FOR PREVENTING PROPOGATION IN FRACTURE OF CERAMIC ELEMENT	**DECISION ON PETITION UNDER 37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed on 26 July 2008 is hereby **GRANTED** as follows:

The proper fees and the petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided.

This application is being forwarded to the United States Designated/Elected Office for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/995,473		Takahiro NAKAMINAMI	043888-0641	8076

53080 7590 09/11/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER

ART UNIT	PAPER NUMBER
2877	

MAIL DATE	DELIVERY MODE
09/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of
Takahiro NAKAMINAMI
Application No.: 11/995473
Filed: 11 January 2008
Attorney Docket No.: 043888-0641

For: MEASURING DEVICE, MEASURING APPARATUS AND METHOD OF MEASURING

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 28 August 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

Discussion

A grantable request to participate in the PPH program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
    b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then a copy of the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from i. or ii. above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

* * * * * * *

Conditions (2) to (4) and (7) above are considered to have been met. However, it is unclear as to whether the request to participate in the PPH program and petition meets condition (5) and (6) above.

Regarding the requirement of condition (5), the instant petition fails to indicate on the request/petition form whether the JPO application is a first action allowance and no office action from the JPO is necessary, or that a copy of the latest JPO office actions (other than "Decision to Grant") from each of the JPO applications. It is noted that the USPTO was unable to obtain a copy of these documents from the Dossier Access System.

Regarding the requirement of condition (6), it could not be determined as to whether the petition meets the requirements of condition (6), because it could not be determined as to whether the petition meets the requirements of condition (5). Additionally, it is noted that the request/petition form indicates that the information disclosure statement filed January 11, 2008 list documents cited in the JPO office actions. Consequently, it appears that the JPO application is not a first action allowance and that the petition should have included the JPO office action(s).

A proper response in this case must include:

1. Applicant must submit:
    a. Documentation of prior office action:

i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then a copy of the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

b. An English language translation of the JPO Office action from (1)(a)(i)-(ii) above; and
c. A statement that the English translation is accurate.

2. Applicant must submit:
   a. An IDS listing the documents cited by the JPO examiner in the JPO office action(s) (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).

CONCLUSION

For the above reasons, the "Request for Participation in the Patent Prosecution Highway (PPH) Program Between the JPO and the USPTO" filed 28 August 2008 is **DISMISSED** without prejudice.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Day
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/995,473		Takahiro NAKAMINAMI	043888-0641	8076

53080 7590 10/31/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER

ART UNIT	PAPER NUMBER
2877	

MAIL DATE	DELIVERY MODE
10/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

In re Application of
Takahiro NAKAMINAMI
Application No.: 11/995473
Filed: 11 January 2008
Attorney Docket No.: 043888-0641

For: MEASURING DEVICE, MEASURING APPARATUS AND METHOD OF MEASURING

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed 28 August 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

A grantable request to participate in the PPH program and petition to make special require:

1. The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO, note where the JPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English translation of the allowable/patentable claim(s) and
    c. A statement that the English translation is accurate;
3. Applicant must
    a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
    b. Submit a claims correspondence table in English;

4. Examination of the U.S. application has not begun;
5. Applicant must submit:
    a. Documentation of prior office action:
        i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then a copy of the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from i. or ii. above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
    b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

CONCLUSION

The request to participate in the PPH program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc.index.html.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Day
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/995,479	01/11/2008	Michael Haupt	02499/0208739-US0	8115

EXAMINER

7590 07/11/2008
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
07/11/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

3 0 JUN 2008

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20036

In re Application of METTLACH et al. U.S. Application No.: 11/995,503 PCT Application No.: PCT/EP06/64039 Int. Filing Date: 10 July 2006 Priority Date: 13 July 2005 Attorney Docket No.: 12810-00609-US For: FLOWABLE THERMOPLASTIC MATERIAL CONTAINING HALOGEN FLAMEPROFFING AGENTS	DECISION under 37 CFR 1.182

This is a decision on applicant's petition under 37 CFR 1.182 filed 14 January 2008 in the United States Patent and Trademark Office (USPTO).

On 11 January 2008, applicant submitted a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing under 35 U.S.C. 371" (Form PTO-1390), which was directed to international application number PCT/EP06/**63956**. The accompanying declaration and application data sheet were directed to PCT/EP06/**64039**. The papers were assigned U.S. application number 11/995,503.

On 14 January 2008, applicants filed a communication indicating that a correction to the international application number was needed to rectify an incorrect international application no. and identifying the correct international application no. The communication is treated as a petition under 37 CFR 1.182. The petition fee is $400 and will be charged to applicant's deposit account per his authorization.

Applicant's petition under 37 CFR 1.182 to correct the international application no. to **PCT/EP06/64039** on the national stage papers filed on 11 January 2008 is **GRANTED**.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing in accord with this decision and removal of the International Bureau's Article 20 papers.

The Notice of Acceptance mailed 22 May 2008 is hereby **VACATED**. A new Notice of Acceptance and filing receipt will be issued.

The USPTO records will identify the present application 11/995,503 is a national stage of **PCT/EP06/64039**.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Fax: (571) 273-0459

2 3 JAN 2009

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Cantor Colburn, LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Application of		
HAN et al.	:	
U.S. Application No. 11/995,512	:	
PCT No.: PCT/KR07/03454	:	
Int. Filing Date: 16 July 2007	:	DECISION ON PETITION
Priority Date: 24 October 2006	:	
Attorney Docket No.: LNK-0175	:	
For: ALGAE FIBER-REINFORCED BICOMPOSITE AND METHOD FOR PREPARING THE SAME	:	

This decision is issued in response to applicants' "Request to Correct Inventorship Pursuant to 37 CFR 1.48(a)" filed 14 August 2008 which is being treated as request for correction of inventorship under 37 CFR 1.497(d).

BACKGROUND

On 16 July 2007, applicants filed international application PCT/KR07/03454 which claimed a priority date of 24 October 2006. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 24 April 2009.

On 11 January 2008, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; a preliminary amendment; and a declaration executed by: Seong-Ok HAN, Hong-Soo KIM, Moon-Hee Han; Joon-Soo KIM; Churi-Hee CHO; Jeong-Gu YEO; Bo-Yun JANG; Si Kyoung KIM; Yoon-Jong YOO, Yeong-Bum SEO, Min-Woo LEE; Young Soo AHN; and Joo-Seok PARK.

On 14 August 2008, applicants filed a "Petition to Correct Inventorship (37 CFR 1.48(a))." The declaration submitted with the petition was executed by: Seong-Ok HAN; Hong-Soo KIM; Yoon-Jong YOO; Yeong-Bum SEO; and Min-Woo LEE.

DISCUSSION

The present submission seeks to correct the inventorship so as to delete inventors Moon-Hee HAN; Joo-Soo KIM; Churi-Hee CHO; Jeong-Gu YEO; Bo-Yun JANG; Si-Kyoung KIM; Young Soo AHN; and Joo-Seok PARK to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

Applicants have satisfied items (1); (2); (3) and (4).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**. Moon-Hee HAN; Joo-Soo KIM; Churi-Hee CHO; Jeong-Gu YEO; Bo-Yun JANG; Si-Kyoung KIM; Young Soo AHN; and Joo-Seok PARK will be deleted as inventors herein.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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In re Application of :
Robi Bonilla Gris :

Application No. 11995514 :DECISION ON PETITION TO MAKE SPECIAL
Filed: :UNDER 37 CFR 1.102(c)(1)
:

Attorney Docket No. UNTI:031US

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 19-MAR-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.

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. 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	11/995,514	Confirmation Number	8372	Filing Date	2008-01-11
Attorney Docket Number (optional)	UNTI:031US	Art Unit	None	Examiner	Unknown
First Named Inventor	Robie Bonilla Gris				
Title of Invention	COVERING ELEMENT FOR PROTECTING STRUCTURES AGAINST SCOURING AND DRAG FORCE				

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
Robie		Bonilla Gris	

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	/Christopher W. Spence/	Date (YYYY-MM-DD)	2008-03-19
Name	Christopher W. Spence	Registration Number	58806

PTO/SB/130 (03-08)
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Application of
James Campbell Cobb

Application No. 11995516

Filed: January 11,2008

Attorney Docket No. T11558

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 10-JUN-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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Paper No.

THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

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JUL 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Dae-Wha Seo et al.	:	
Application No. 11/995,521	:	DECISION ON PETITION
Deposited: January 11, 2008	:	PURSUANT TO
Attorney Docket No.: 29921U	:	37 C.F.R. § 1.137(B)
Title: BATTERY POWER	:	
CONSUMPTION CONTROL	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 17, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The concurrently submitted Change of Address has been entered and made of record.

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (notice)," mailed May 28, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 29, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office

action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, the additional claim fees, the executed declaration along with the associated surcharge, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by OPAP in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.

---

1 See Rule 1.137(d).

Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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FOX ROTHSCHILD LLP
2000 MARKET STREET
PHILADELPHIA PA 19103

Applicant: Carite, et al.
Appl. No.: 11/995,589
International Filing Date: July 1, 2006
Title: EXTRACTS OF GINKGO BILOBA
Attorney Docket No.: C 3027 PCT/US
Pub. No.: US 2008/0193572 A1
Pub. Date: August 14, 2008

MAILED

APR 2 1 2009

OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 14, 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 application wherein the inventor's name "Gartner" is missing the umlaut over the "a".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error in the specification may be an Office error, but it is a not material Office error under 37 CFR 1.221. The typographical error in the inventor's name 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.

[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).

On April 22, 2008, a Filing Receipt was mailed by the Office, which improperly listed the inventor's name. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt prior to publication of the application.

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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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

Mail Date: 04/21/2010

Applicant	: Meike Wittrock	: DECISION ON REQUEST FOR
Patent Number	: 7638452	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/995,590	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2008	: 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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29 MAY 2008

27317
FLEIT GIBBONS BONGINI & BIANCO PL
21355 East Dixie Highway
Suite 115
Miami, FL 33180

In re Application of YOSSEPOWITCH *et al* U.S. Application No.: 11/995,635 PCT No.: PCT/IL2006/000595 Int. Filing Date: 21 May 2006 Priority Date: 19 May 2005 Attorney Docket No.: 7057-X08-014 For: ASSISTED APPARATUS FOR ANASTOMOSIS AND METHOD THEREBY OF RECONNECTING THE URETHRA TO THE BLADDER AFTER REMOVAL OF THE PROSTATE DURING A PROSTATECTOMY	**DECISION ON PETITION UNDER 37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed on 14 January 2008 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted. The $65.00 surcharge fee has been charged to Deposit Account No. 50-0601 as authorized.

This application is being forwarded to the Office of Patent Application Processing for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 28 2010

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Anthony J. Zelano
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:
Henzler et al.	:
Serial No.: 11/995,742	: PETITION DECISION
Filed: 15 January 2008	:
Attorney Docket No.: MERCK-3414	:

This is in response to the petition under 37 CFR 1.144, filed 29 March 2010, requesting reconsideration of the lack of unity requirement.

BACKGROUND

This application is a national stage filing under 35 USC 371 of PCT/EP/2006/006642 and, as such, is eligible for PCT unity of invention practice.

On 8 April 2009, the examiner mailed a restriction requirement in which claims 1-21 were divided into 4 groups as follows:

> Group I, claim(s) 1-8, 21, drawn to a method for measuring autophosphorylation of tyrosine kinase.
>
> Group II, claim(s) 9-10, drawn to use of methods for measuring autophosphorylation of tyrosine kinase.
>
> Group III, claim(s) 11-15, drawn to a kit for profiling the specificity of kinase inhibitors.
>
> Group IV, claim(s) 16-20, drawn to a composition of unique dyes associated with an antibody.

The examiner identified the shared technical feature as autophosphorylation of a tyrosine kinase with a dye and an antibody. The examiner stated that Dahring taught this feature.

On 8 May 2009, applicants responded by electing Group 1, claims 1-8 and 21, directed to a method of autophosphorylation of tyrosine kinase, with traverse.

On 10 August 2009, the examiner prepared a non-final Office action in which the traversal was considered and requirement made final. Claims 9-20 were withdrawn from consideration. Claims 1-8 and 21 were rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claims 1-8 and 21 were rejected under 35 USC 103(a) as being unpatentable over Dahring and Heit in view of Hueber. Claim 21 was rejected under 35 U.S.C. 112, first paragraph as lacking adequate written description.

On 10 November 2009, applicants filed a response to the Office action, cancelling withdrawn claims 11-15 of non-elected Group III and amending withdrawn claims 9 and 10 to recite a method in independent format, in place of "Use of the method of claim 1".

On 29 January 2010, the examiner prepared a final Office action. Claims 9-10 and 16-20 were withdrawn from consideration. Claims 1-8 and 21 were rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claims 1-8 and 21 were rejected under 35 USC 103(a) as being unpatentable over Dahring and Heit in view of Bonetta. Claim 21 was rejected under 35 U.S.C. 112, first paragraph as lacking adequate written description.

On 29 March 2010, applicants filed this petition to request reconsideration of the lack of unity determination.

On 29 April 2010, applicants filed a Request for Continued Examination, a response to the Office action and amended claims. The amendment cancelled all claims directed to non-elected invention Group IV.

DISCUSSION

The petition and file history have been carefully considered. The petition requests examination of claims 9-10 with elected Group I.

The following chart compares the limitations of examined claim 1 with withdrawn claim 9, as currently amended. Identical limitations between claims 1 and 9 are shown in regular font. *Italics text* shows differences between the preamble and final clauses of claims 1 and 9.

Group I, claim 1, examined	Group II, claim 9, withdrawn
A method for measuring autophosphorylation of a tyrosine kinase in presence of a kinase inhibitor compared to autophosphorylation of said tvrosine kinase in the absence of said kinase inhibitor, comprising	*A method for profiling kinase inhibitors for their specificity to inhibit a tyrosine kinase, comprising*
(a) starving cells by serum depletion,	(a) starving cells by serum depletion,
(b) inducing kinase autophosphorylation activity by adding serum, growth factors and/or cytokines in presence and in absence of a kinase inhibitor,	(b) inducing kinase autophosphorylation activity by adding serum, growth factors and/or cytokines in presence and in absence of a kinase inhibitor,

(c) solubilizing the cells to release a cell lysate,	(c) solubilizing the cells to release the cell lysate,
(d) capturing the tyrosine kinase in the cell lysate by adding different tyrosine kinase specific binding proteins, wherein each different binding protein is associated with a unique dye,	(d) capturing the tyrosine kinase in the cell lysate by adding different tyrosine kinase specific binding proteins, wherein each different binding protein is associated with a unique dye,
(e) adding a phosphotyrosine specific antibody tagged with a marker, wherein said marker is distinguishable from any of the unique dyes from d),	(e) adding a phosphotyrosine specific antibody tagged with a marker, wherein said marker is distinguishable from any of the unique dyes from d),
(f) identifying the autophosphorylated tyrosine kinase by detecting the unique dye from d) and the marker from e), and	(f) identifying the autophosphorylated tyrosine kinase by detecting the unique dye from d) and the marker from e), and
(g) comparing a level of autophosphorylation of said tyrosine kinase in the presence	(g) comparing the level of autophosphorylation of said tyrosine kinase in the presence
of said kinase inhibitor to a level of autophosphorylation of said tyrosine kinase	*versus*
in the absence of said kinase inhibitor.	in the absence of said kinase inhibitor.

As shown above, active steps (a) – (f) are identical between both claims. The difference between the active step (g) is grammatical in nature. The preambles are comparable. In view of the shared same or corresponding technical features between independent Claims 1 and 9, unity of invention is present between Group I and Group II, a priori.

DECISION

The petition is **GRANTED** as follows:

The restriction requirement between Groups I and II is withdrawn. Claims 1-8, 9-10, 21, and new claims 22-28 will be examined together in this application.

The application will be forwarded to the examiner for consideration of the papers filed 29 April 2010 and for preparation of an Office action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jacqueline Stone
Director, Technology Center 1600

0 7 JAN 2009

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of HARGRAVE et al	:	
U.S. Application No.: 11/995,778	:	
PCT Application No.: PCT/AU2005/001039	:	
Int. Filing Date: 15 July 2005	:	
Priority Date Claimed: none	:	DECISION
Attorney Docket No.: 03164.0220USWO	:	
For: METHOD AND APPARATUS FOR MONITORING GATEROAD STRUCTURAL CHANGE	:	

This is in response to applicant's "Petition Under 37 CFR 1.47(b)" filed 07 November 2008, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 15 July 2005, applicant filed international application PCT/AU2005/001039. A copy of the international application was communicated to the USPTO from the International Bureau on 25 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2008.

On 15 January 2008, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 May 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 07 November 2008, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Michael Kelly refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Mr. Kelly for signature (see affidavit of Peter Kambouris, ¶8, and Exhibit PK-2B). Furthermore, the petition sufficiently illustrates Mr. Kelly's refusal to sign. In particular, Mr. Kelly made an express written refusal to cooperate in an electronic mail message dated 20 March 2008 (see Kambouris affidavit, ¶9, and Exhibit PK-3). Moreover, Mr. Kelly's failure to return an executed declaration in response to the 13 September 2008 electronic mail message evidences a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Mr. Kelly refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 July 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 November 2008.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin
Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

0 7 JAN 2009

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Michael Shawn Kelly
335 Pullenvale Road
Pullenvale, QLD 4069
AUSTRALIA

In re Application of HARGRAVE et al
U.S. Application No.: 11/995,778
PCT Application No.: PCT/AU2005/001039
Int. Filing Date: 15 July 2005
Priority Date Claimed: none
For: METHOD AND APPARATUS FOR MONITORING GATEROAD STRUCTURAL CHANGE

Dear Michael Shawn Kelly:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903
Attorney Docket No.: 03164.0220USWO

0 9 JUL 2008

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00757
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago. IL 60610

In re Application of
KAGERMEIER *et al*
Application No.: 11/995,795
PCT No.: PCT/EP2006/063902
Int. Filing Date: 05 July 2006
Priority Date: 20 July 2005
Docket No.: 11371/287 (2005P04621WOUS
For: WIRELESS TRANSMISSION FOR A MEDICAL DEVICE

DECISION

This is a decision on the declaration filed on 16 May 2008 which has been treated as a petition under 37 CFR 1.42.

BACKGROUND

On 15 January 2008, applicants filed papers to enter the national stage of PCT/EP2006/063902.

On 16 May 2008, applicants filed a declaration executed by two of the three named inventors and three executors of a deceased inventor along with authorization to charge any required fees to Deposit Account No. 23-1925.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants submitted a declaration executed by two of the three named inventors and three executors of Reiner Staab, who is deceased.

The citizenship, residence and address of the executors are recorded on the declaration pursuant to 37 CFR 1.497(b)(2). The required information for the two inventors was also recorded on the declaration. However, this declaration does not meet the requirements of 37 CFR 1.497(a)(3) as the citizenship information for the deceased inventor is not listed. This information is still required.

11/995,795

CONCLUSION

For the reason listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

The $130.00 surcharge fee for late filing of a declaration pursuant to 37 CFR 1.492(h) has been charged to Deposit Account No. 23-1925 as authorized.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 NOV 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

00757
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago. IL 60610

In re Application of KAGERMEIER *et al* Application No.: 11/995,795 PCT No.: PCT/EP2006/063902 Int. Filing Date: 05 July 2006 Priority Date: 20 July 2005 Docket No.: 11371/287 (2005P04621WOUS For: WIRELESS TRANSMISSION FOR A MEDICAL DEVICE	**DECISION**

This is a decision on the declaration filed on 09 September 2008 which has been treated as a petition under 37 CFR 1.42.

BACKGROUND

On 09 July 2008, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 09 September 2008, applicants filed the instant response which was accompanied by another declaration.

DISCUSSION

In the renewed petition, applicants submitted a declaration signed by two joint inventors and three executors of deceased inventor, Reiner Staab. The citizenship of the deceased inventor is recorded on this declaration.

However, the declaration submitted is a composite declaration and is not accepted. The declaration filed consists of six pages (one Page 1; two Page 2; one Page 3; and two Page 4). 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. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor.

Applicants must submit the complete declaration signed by each co-inventor and executor.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago. IL 60610

In re Application of :
KAGERMEIER *et al* :
Application No.: 11/995,795 :
PCT No.: PCT/EP2006/063902 :
Int. Filing Date: 05 July 2006 : **DECISION**
Priority Date: 20 July 2005 :
Docket No.: 11371/287 (2005P04621WOUS :
For: WIRELESS TRANSMISSION FOR A :
MEDICAL DEVICE :

This is a decision on the declaration filed on 15 January 2009 which has been treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 17 November 2008, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration provided was only a composite declaration. Applicants were given two months to respond.

On 15 January 2009, applicants filed a new declaration.

DISCUSSION

The prior declaration filed 09 September 2008 was not accepted as it was considered to be only a composite declaration. Applicants were requested to provide a complete copy of each declaration presented to the co-inventors and the three executors.

In the renewed petition, applicants submitted a complete copy of each declaration signed by two joint inventors and three executors of deceased inventor, Reiner Staab. The citizenship of the deceased inventor is recorded on the declaration signed by executor, Susanne Elisabeth Staab.

This declaration meets the requirements of 37 CFR 1.42 and 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

The renewed papers filed under 37 CFR 1.42 are **ACCEPTED**.

11/995,795

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 July 2006, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 15 January 2009.

This application is being forwarded to the Office of Patent Application Processing for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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17 JUN 2008

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of KRONHAMN	:	
U.S. Application No.: 11/995,808	:	
PCT Application No.: PCT/IB2005/052341	:	DECISION
Int. Filing Date: 14 July 2005	:	
Priority Date Claimed: none	:	
Attorney Docket No.: P20432 US1	:	
For: MODEL SET ADAPTATION BY PROBABILITY MASS DIFFUSION	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 January 2008.

BACKGROUND

On 14 July 2005, applicant filed international application PCT/IB2005/052341. A copy of the international application was communicated to the USPTO from the International Bureau on 18 January 2007. The thirty-month period for paying the basic national fee in the United States expired on 14 January 2008.

On 15 January 2008, international application PCT/IB2005/052341 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 January 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459